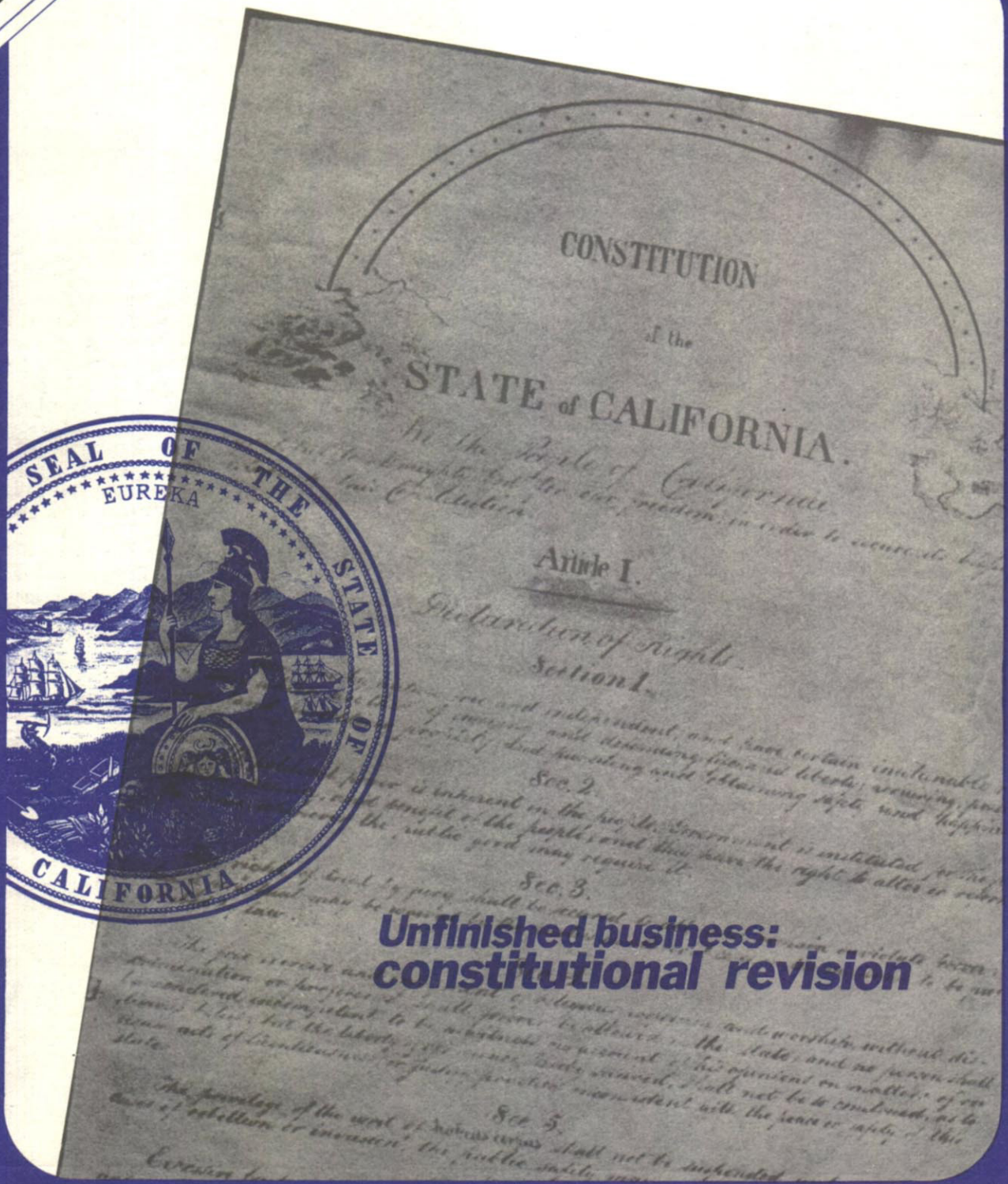
California Journal

MONTHLY REPORT ON STATE GOVERNMENT AND POLITICS

SPECIAL REPORT
The Energy Crisis



Unfinished business: constitutional revision

December 1973

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A SACRAMENTO PERSPECTIVE

Parade to the Potomac

They laughed across the nation back in 1966 when Ronald Reagan stepped off the movie screens to play the part of Governor of California. Here we are, seven years later, and Reagan has just suffered his *first* major defeat, rejection of Proposition 1 by the voters last month. Even Reagan's philosophical opponents grudgingly admit that the Governor has done an effective job of selling his concept of government and manipulating a Democrat-controlled Legislature. While Easterners were still making fun of California for electing the self-styled "citizen-politician", Reagan showed the home folks that he was also a hard-boiled operator with more natural political ability than his professional competitors.

Now, the situation is reversed. Reagan's California career is at an end, and there are those who claim that he has about worn out his welcome with the state's electorate.

But Reagan is directing his attention now toward the other 49 states in an ill-concealed campaign for the Republican presidential nomination in 1976. During the Proposition 1 campaign, it was generally assumed that the initiative drive was at least in part a propaganda effort designed to show fiscal conservatives across the country how effective Reagan can be. Fiscal conservatives usually choose Republican nominees for President.

How big a blow was the defeat of the proposition to Reagan's presidential ambitions? Probably not enough to make a dent. Reagan is the current leader in the polls, and probably only Washington developments beyond his control could alter his standing. The fact is that other states pay about as much attention to our ballot propositions as we pay to theirs. Reagan need not hide his head in shame over the outcome of his initiative: Who but Reagan could have sold 46 per cent of the voters on a measure so complex and drafted in such terms that no one, including Reagan, could predict with certainty what the precise consequences of its enactment would have been? The prime mistake Reagan made with Proposition 1 was not drafting it himself instead of entrusting it to egghead economists.

* * *

The Reagan era in California can be assessed at this juncture because he is now a true lame-duck and will soon be taking a national tour to attack the liberal philosophy of government. (In other words, he's going delegate hunting.) These were the hallmarks of his administration:

• Following his defeat of San Francisco Mayor George Christopher in the 1966 GOP primary, Reagan issued a demand for party unity and made divisiveness the cardinal sin. Departments of state government were not allowed to take different stands on issues, and their conflicts were resolved by the Governor's cabinet. The party's progressive element, represented by such men as Controller Houston I. Flournoy, was forced to remain mute or support Reagan.

• Through the power of appointment, Reagan put his own brand on semi-autonomous branches of government such as the University of California Regents and the State University and College Trustees. He failed, however, to Reaganize the state Supreme Court because his appointee as chief justice, Donald Wright, turned out to have a judicial philosophy akin to the Democrats named to the bench by Pat Brown. The court's activist majority was narrowed, however, with the appointment of William P. Clark Jr., Reagan's former executive secretary.

• Reagan sharply increased the power of the Executive by comparison with the Legislature. Under the leadership of Jess Unruh, the Legislature had become the dominant branch of government during Brown's second term. Reagan promptly altered the power structure by applying his party-unity policy to Republicans in the Legislature. He felt free to veto any bill without fear that enough Republicans would defect to provide the two-thirds majority needed for an override (although he had a couple of close calls). He thus prevented the Legislature from reapportioning itself under the assumption that his party would be better off under a court redistricting. Perhaps more significantly, he established a system under which his office would negotiate directly with the Democratic leadership on major issues, cutting GOP caucus members out of the action. Resulting compromises were then jammed down the throats of rank-and-file members of both parties.

* * *

How long will the Reagan brand burn? Will the coming gubernatorial election split the GOP again? Will Republicans in the Legislature next year remain under the thumb of the Governor, who is not about to give up control of the party and its pursestrings? Will Reagan, as a presidential candidate, demand that Republicans remain solidly behind him in his parade to the Potomac?

Reagan will be 65 years old on February 6, 1976, a milestone that many Americans celebrate by going into retirement. At that time, he will be peaking his attempt to light a prairie fire under his candidacy. Despite his approaching senior citizenship, the Governor is vigorous enough to carry on the crusade for conservative fiscal principles — a cause he hopes will carry him from actor-turned-politician to President of the United States in a single decade.

ED SALZMAN

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Time to clean out that nest

An offer Californians did refuse

Editorial cartoon by Paul Conrad Copyright, Los Angeles Times Reprinted with permission

'Isn't he the one who takes from the poor and gives to the rich?'

Prop. 1's loss: confusion, Reagan, Watergate, Moretti, public employees

By BRUCE KEPPEL

Ronald Reagan was at his extemporaneous best before the microphone of Channel 2 in Oakland on October 26th, chatting about his tax-limitation initiative, which Californians would vote on in a special election he had called for November 6th. "Do you think the average voter really understands the language of this proposition?" asked the show's host. "No," quipped the Governor. "He shouldn't try. I don't, either."

In the good-natured give-and-take of the show, the remark had a certain ingratiating quality. It implied that all those 5,700 or so words in Proposition 1 were just something the experts said were needed to carry out what Reagan, the erstwhile citizen-politician, claimed was only a "Taxpayer's Bill of Rights". But stripped of the cozy context and magnified in half-inch capital letters floating in a page of white space in the state's major newspapers in the closing days of the campaign, the words came across far differently. That ad, the work of the political PR firm of Whitaker and Baxter, hit the confusion theme hard. "When a proposition's chief sponsor doesn't understand it," the ad emphasized, "it's time for the rest of us to vote no on Proposition No. 1."

Reagan conceded on election night that voter confusion was a major element in the strong vote against the measure. "I wish the basic philosophical issues could have been more clearly drawn without the distracting, irrelevant and confusing play on human fears and the basic emotions of the people."

Vote on Reagan

The Whitaker and Baxter ad did capitalize on one factor that a *Los Angeles Times* sampling also detected — that few people understood just what would happen if Proposition 1 passed and so were tending to decide the issue along partisan lines or in terms of trusting Reagan. If so, the no vote reflects the continued erosion of Reagan's political popularity in California, from the million-vote majority with which he ousted Pat Brown from the Governor's office in 1966, a margin cut in half by Jess Unruh's weakly financed campaign in 1970.

That Reagan was the strong selling point was perceived by the strategists directing Californians for Lower Taxes. A major expense was use of the telephone as a medium of mass communication on a scale never before attempted — and solely to take advantage of Ronald Reagan. The Governor thus sent tape-recorded "personal" messages to the home of every Republican and other selected voters in the state. (It is possible that the practice of having a live voice come on after the Governor to record the personal commitment and name of the prospective "yes" voter also affected response, and more likely negatively on grounds of intruding on privacy than positively.)

Newspaper support

On the merits of the proposition itself, the evidence is that they were either not compelling or unclear. Californians for Lower Taxes estimated that "85 percent of the state's news outlets" had endorsed the measure. All major newspapers in the state, with the notable exception of the McClatchy Newspapers in Sacramento, Modesto and Fresno, did support Proposition 1, editorially. This included the *Times*, which published an editorial that concluded a painstaking enumeration of the measure's weaknesses by delicately suggesting "a vote in support" of it. (The carefully qualified support appeared October 31st and was at least offset on election eve by publication of a vivid drawing by the paper's independent cartoonist, Paul Conrad, depicting "Reagan Hood", who robs the poor to give to the rich.) Such tenuous support by the state's most influential newspaper may explain why Los Angeles County ended in the "no" column. But so did every other populous county except San Diego, where the margin was close, and Orange, where it was more substantial. In only nine

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other counties, sparsely populated, did the proposition carry [see "The vote on Proposition 1," p. 402].

'Carrot' removed

While there was enough inherent difficulty in putting across the thrust of the complex economic measure assembled largely by Claremont professor Craig Stubblebine, the difficulty was compounded in August, when the Democrat-controlled Legislature struck a bargain with the Governor on how to return a $780 million surplus to Californians. This took the carrot out of the package — the possibility of taxpayers voting themselves a rebate — and left primarily the complex tax-limitation machinery.

Another setback came in August, too. The 750-word statement prepared by Legislative Analyst A. Alan Post on the measure's estimated fiscal impact was approved for inclusion in the ballot pamphlet sent to all registered voters. The statement, which Reagan protested as being deliberately distorted, detailed projected cutbacks that Post estimated would be required if the measure passed.

While Post's staff produced a series of detailed studies supporting the thesis that existing state programs would have to be cut back by $1 billion in four years, the proponents chose not to attempt to refute Post; instead, they attacked the integrity of the man himself while asserting that Proposition 1 would not affect existing programs (which must have puzzled voters interested in holding down their taxes). [*CJ*, October 1973, p. 339.]

New political force

This unwillingness or inability to refute Post's contentions weighed heavily upon public employees. The chief contributors in the campaign to defeat the measure were the California State Employees Association and the California Teachers Association. They provided almost four-fifths of the more than half million dollars reportedly raised by opponents. "Civil service has been going to hell with this administration," commented Walter Taylor, CSEA general manager. "We decided we had to defend ourselves." Doing so successfully has forged a new political force to be reckoned with in California — an alliance of public employee organizations.

Reagan noted this strength in a news conference November 16th by remarking how "deeply entrenched the government establishment is." He expressed concern that unless "something is done quickly we may find . . . government is the master and not the servant."

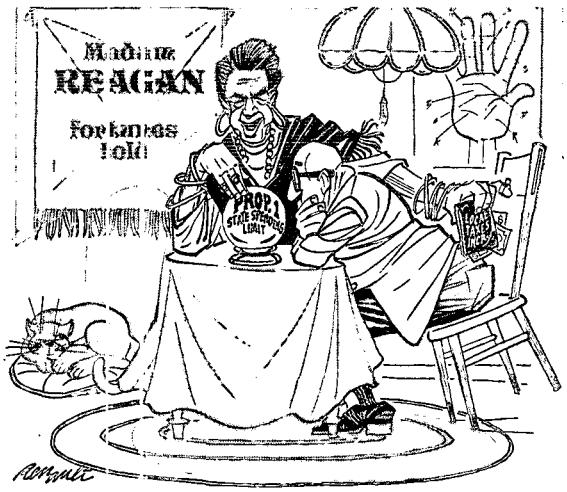
The Governor conceded that some voters who may have supported the tax-limitation idea opposed it on the ground that it didn't belong "locked" in a constitution. This political-theory approach was prominently advanced by the League of Women Voters. If recognition that such detailed material doesn't belong in a constitution was a factor in Proposition 1's defeat, it marks consistent behavior on the part of voters. They had pruned some 30,000 words from the California Constitution in the last decade [see p. 403].

Partisan influence

But it was also a partisan issue. Mervyn Field polled Californians twice during the campaign. While noting a firming "no" vote at the end of October in his second sounding (which approximated the actual vote), he found that 53 percent of the Republicans queried supported and 52 percent of the Democrats opposed Proposition 1. The Legislature also broke along party lines (with a few notable discrete defections among Republicans). The partisan factor was built into Reagan's decision to call a special election, at considerable cost to the state, rather than merely adding the measure to the June 1974 primary ballot. The Governor justified the unprecedented action of calling a special election to vote on just one issue, his own, by saying that he wanted to be in office if it took effect. But special elections also have always drawn small turnouts. The strategy was aimed at negating the Democrats' advantage in voter registration, since Republicans tend to go to the polls more consistently than Democrats, and especially in special elections.

As it turned out, a small turnout did materialize — about 47 percent of registered voters. A check of key counties suggests that Republicans did turn out in greater proportion than Democrats — but not extraordinarily so. In other words, the turn-out-the-vote campaign conducted by Proposition 1's supporters couldn't do better than hold even with the efforts of such mass-membership groups as the public-employee associations.

Finally, lurking somewhere in the background was the public's skepticism toward politics engendered by the scandals swirling about the Republican Party and President Nixon since Watergate. "It is obvious that



"You will be relieved of a great burden . . ."

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The vote on Proposition 1

The following table contains the final semi-official tally by the Secretary of State's office of the vote November 6th on Governor Reagan's tax-limitation initiative. Three Los Angeles precincts are unaccounted for, pending the county's official canvass.

Also included are the percentages of Democrats and Republicans registered to vote in the special election. The total eligible electorate was 9,098,818 — 1,367,397 fewer than in the general election a year earlier. There were 5,049,957 Democrats (55.6%), 3,422,290 Republicans (37.6%), and 509,968 (5.6%) declined to state.

County	Dem.	Rep.	Yes	No
Alameda	65%	28%	79,201	133,764
*Alpine	37	54	163	159
Amador	60	37	1,682	2,393
*Butte	51	42	12,924	11,800
*Calaveras	53	42	2,192	2,035
Colusa	55	42	1,204	1,568
Contra Costa	57	38	58,896	67,700
Del Norte	56	38	996	1,352
El Dorado	53	40	4,956	5,704
Fresno	63	32	29,841	43,433
Glenn	56	40	2,321	2,503
Humboldt	59	32	8,677	23,932
*Imperial	56	38	6,008	5,845
Inyo	50	45	1,773	2,506
Kern	58	37	31,328	31,925
Kings	63	33	3,461	5,371
*Lake	55	41	3,584	3,522
Lassen	64	31	1,250	2,649
Los Angeles	57	36	678,412	725,754
Madera	62	36	3,154	4,178
Marin	50	41	28,768	30,124
Mariposa	51	43	1,048	1,301
Mendocino	56	36	5,058	8,185
Merced	63	32	6,175	9,700
Modoc	56	41	789	1,256
*Mono	44	49	724	688
*Monterey	53	40	19,413	18,540
Napa	54	41	8,705	11,986
*Nevada	51	44	4,654	4,548
*Orange	42	51	189,560	129,648
Placer	59	37	8,190	12,726
Plumas	63	32	1,221	2,431
Riverside	51	43	44,415	54,246
Sacramento	61	33	52,683	96,355
*San Benito	57	39	1,762	1,559
San Bernardino	53	41	52,458	67,834
*San Diego	47	44	158,402	156,189
San Francisco	67	26	68,115	120,130
San Joaquin	58	37	23,910	31,382
San Luis Obispo	51	42	10,429	16,492
San Mateo	55	38	57,014	69,933
Santa Barbara	50	41	29,681	36,513
Santa Clara	55	38	94,758	125,158
Santa Cruz	53	38	15,700	19,917
Shasta	62	35	5,603	11,768
Sierra	61	34	261	502
Siskiyou	61	35	2,970	5,371
Solano	67	30	13,458	16,849
Sonoma	54	39	23,887	28,250
Stanislaus	60	36	13,135	26,152
Sutter	51	45	4,352	4,394
Tehama	57	38	2,862	3,866
Trinity	60	34	1,234	1,491
Tulare	56	40	13,429	16,541
Tuolomne	57	39	2,786	3,221
Ventura	50	43	36,199	40,843
Yolo	63	31	6,782	17,434
Yuba	60	34	2,500	3,089
Totals	**55.6%**	**37.6%**	**1,945,123**	**2,284,705**

*Approved initiative

Source: Secretary of State

voters in California have been deeply affected by the growing Watergate scandal," commented Secretary of State Edmund G. Brown Jr. on election night, "and the strong feelings against President Nixon are carrying over to other Republican candidates and issues supported by the Republican Party." Brown's partisanship aside, a negative influence is about the only kind imaginable, especially since the measure would have strengthened the Executive at the expense of the Legislature.

Well-financed campaigns

Whatever the reasons for the defeat, it wasn't due to a lack of campaign funds. According to Brown, the campaign was the most expensive for a ballot measure in California history. Proponents spent about $1.5 million, and another $385,000 to obtain signatures to qualify the initiative for the November vote. Opponents reported spending about $310,877, plus a loan of $65,000 from Assembly Speaker Bob Moretti's personal campaign funds (reportedly used to pay for television ads featuring the Speaker in opposition to Proposition 1).

Despite this 5-to-1 spending advantage, Californians for Lower Taxes still maintained that it couldn't match the efforts of the opponents. Michael Deaver, who coordinated the proponents' campaign, pointed out that $175,000 of the committee's funds went to Reagan staff members like himself who took leave of their government jobs to work for the boss' proposal. Such fiscal integrity was not practiced, Deaver claimed, by Speaker Moretti, who he said used legislative funds and staff to campaign against Proposition 1. (The leave-taking by Reagan aides followed charges by the Legislative Analyst that unauthorized public funds were used to finance the Governor's task force that put together the proposal). Both Moretti and Reagan certainly used whatever leverage their respective offices provided. For Moretti, this included the Assembly Office of Research, a nominally nonpartisan research arm that serves all members of the Assembly, which produced several studies challenging assertions made by the proponents.

A conservative Republican, Senator H. L. Richardson, blamed the defeat on the incompetence of the proponents' campaign. "The Governor assigned some of his top pygmies to it. Their only good characteristics were mixing a drink, and he gave them responsibility for running a campaign. If the Governor tries to use the same people to run for President, he'll be lucky to find a plane ticket to where the convention is." (Replied Reagan's press secretary, Clyde Walthall: "The Governor doesn't agree with Richardson's assessment of the campaign or the people who conducted it.")

Another initiative?

Governor Reagan's reaction to the vote was to repeat his pledge to treat the 1974-75 budget as if his proposition had passed. (Moretti had quickly picked this up as proof that the tax-limitation initiative was unnecessary.)

Moretti's response to his victory — and one of his rivals for the Democratic nomination for Governor, Secretary of State Brown, gracefully credited the Speaker with solidifying Democrats against the measure — was to propose "real" tax reform. "Next November, we're going to go to the people with an initiative which will really give tax reform to the people of this state." (State Controller Houston I. Flournoy, a Republican candidate for Governor who endorsed the initiative, countered by urging "a moratorium" on tax initia-

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tives, chiding Moretti that the Speaker had called tax reform the Legislature's province.)

Elaborating on Moretti's comments a few days later, Assemblyman John Burton, Democratic state chairman, outlined the embryonic proposal in these terms:

- Reduce the sales tax from 6¢ on the dollar to 5¢.
- Exempt from personal income tax individuals with $6,000 or less adjusted gross income and couples with $12,000 or less.
- Add four new upper tax brackets, raising the maximum personal income tax rate from a top of 11 percent to a top of 15 percent and the tax rate on sheltered income from a maximum now of 2.5 percent to 7.5 percent.
- Raise the tax rate on general corporations from the present 9 percent to 15 percent, and on banks and financial institutions from 11 percent to 15 percent.

Boost for Moretti

These proposals will probably be introduced in the Legislature as well. The Assembly Office of Research is "considering" undertaking such a project, said Director William Hauck, a former top Moretti aide. Whatever the merits of this sketchy proposal, its populist thrust is clear. So is its value as a vehicle to maintain the momentum Moretti generated in successfully opposing Reagan. This was the second time this year that he successfully went out on a limb politically, having earlier supported Tom Bradley's victorious bid to unseat Los Angeles Mayor Sam Yorty.

Bob Moretti

Moretti sees the result of his full time Proposition 1 opposition as having "given people a chance to see me in some other light than Assembly Speaker." They also just plain saw a lot of a man who hitherto suffered by a low degree of voter identification. That is changed now.

To Reagan, Proposition 1 was a concept that would benefit all taxpayers by giving them some control over how much of their income should be taxed by the state. If Proposition 1 did not favor the wealthy few, as opponents charged, that fact was belied by the special-election strategy aimed at inflating the ballot-box strength of the state's wealthier and more conservative citizens. ("When was the last time you heard Reagan say, 'Power to the People'?" quipped Moretti.) One of the persons tapped by *Times* reporters during their survey was a surgeon's wife from Orinda. She seemed to have had no doubt about the measure's impact. "I will vote 'yes'," she said, "because I understand people in the higher-income bracket will get the biggest break, and I need it."

That may not have been quite the unconfused message the Governor had intended to transmit, but that was the message that the surgeon's wife received nonetheless — and also the California Teachers Association, the California State Employees Association, several senior citizens groups and organized labor.

For many individual citizens, confusion undoubtedly played a part in their deliberation. And the conventional wisdom obtained: When in doubt, oppose.

Reagan overruled

Court's Christmas gift to aged, disabled and blind

Californians receiving aid for the aged, blind or totally disabled will likely receive an unexpected Christmas gift from the state — one that Governor Reagan had not intended to give: sharply increased grants.

Starting January 1st, the federal government is scheduled to begin sending $130 monthly checks to welfare recipients in these categories. All now receive grants greater than this from the state. Because the new federal grant is less than what California recipients are getting, the state planned to supplement it. Under HR 1, the federal legislation setting up the new administration of the program, states wishing to augment the basic grant can do so by transferring their funds to the federal government, which would consolidate the two contributions in one check.

Legislation fails

Four bills were introduced in the Legislature this year to enable the state to participate in the federal program, but all failed. The last, AB 18 (Burton), lacked two votes in the Senate, a margin that Governor Reagan provided by assuring wavering Senators that the administration could implement the new supplemental-aid program without legislation. Reagan based his assurance on a ruling by Attorney General Evelle Younger.

With this success, the Reagan administration drafted new regulations covering the federal takeover and providing modest increases to all recipients — though less than AB 18 would have allowed: $221 monthly for aged or blind recipients and $237 for the disabled.

Court intervenes

This bypassing of the legislative process was challenged by groups standing to benefit from the higher grants contemplated by the Legislature. On November 19th, the Third District Court of Appeal in Sacramento ruled in their favor. The court held that in following Younger's "inconclusive advice" the administration had acted with no state legal authority, whatever justification existed under federal statute. As a result, the court blocked state Controller Houston Flournoy from transferring any state funds to the federal government and ordered the state to continue paying its existing grants. The resulting total will surpass even the amount contemplated by AB 18.

The administration immediately announced that it would appeal the court's ruling to the state Supreme Court, which will not be able to consider the case until at least December 19th — 30 days after the disputed ruling. Commented state Welfare Director David Swoap: "Under no circumstances can the grants be less in January than they were in December, and they will arrive on time." Responsibility for timely arrival in January will fall, however, upon county government, which has been tooling down in anticipation of the federal takeover.

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If Bruce Sumner's smile brightened November 7th, voters who rejected Governor Reagan's tax initiative can take the credit. Sumner, a former member of the Assembly and now an Orange County superior court judge, objected to writing a tax limitation into the California Constitution and using 5,700 words to do it. Sumner was chairman of the Constitution Revision Commission, which spent nine years and $2.8 million attempting to simplify the Constitution. Proposition 1, Sumner declared, was "in direct contradiction to the goals of the whole revision process."

What were those goals and why do they remain unfulfilled?

Our bulky constitution – is pruning season over?

By DENNIS CAMPBELL

While school segregation and the San Francisco Panama-Pacific Exposition of 1915 have little in common, they illustrate the beauty of the United States Constitution and the beast in the California Constitution. The U.S. Supreme Court ruled school segregation unconstitutional in 1954 merely by reinterpreting the same language in the federal Constitution used by the court 60 years earlier to justify segregation if educational facilities were "separate but equal". For an event of somewhat lesser social and political impact, Californians authorized state support for the Panama-Pacific Exposition not by statute or court ruling but by a 14,500-word constitutional amendment.

These examples represent a pattern typical of each constitution. The U.S. Constitution has changed and grown with the times simply by the courts' finding new meanings in its original 7,000 words. The California Constitution, on the other hand, has ballooned from 14,000 words on its adoption in 1879 to 80,000 words in 1964. The increase resulted from 360 amendments. The result, complained Phil S. Gibson, former chief justice of the California Supreme Court, is a constitution that is "cumbersome, unelastic and outmoded . . . . It is not only much too long, but it is almost everything a constitution ought not to be."

Easy to amend

In the early 1960s, about 74 percent of the state Constitution dealt with matters more commonly covered by statute. California's first Constitution was relatively free of such material. But the Constitution of 1879 was drafted at a time when the Legislature was responding more to vested interests than to the public. Consequently, the framers included in their document many laws that the Legislature had failed to enact. Some of those laws still remained in the Constitution 10 years ago.

Hiram Johnson opened the way for more statutory material when he became Governor. In 1911-12, his successful campaign to secure for California the right to legislate directly via the initiative, referendum and recall made it possible to amend the Constitution by a majority vote of the people, just as Governor Reagan hoped to do last month.

The unusual frequency of amendment in California has been attributed to existence of the initiative. But only 23 of the Constitution's first 360 amendments were achieved by initiative. More likely, political scholars suggest, rapidly changing social and economic conditions in the state put extraordinary strains on a Constitution already impossibly detailed and inflexible. Attempts to deal with the resulting problems by amendment, they say, only made the Constitution more detailed and rigid, leading in turn to even more amendments.

By the 1960s, the pressure to do something about a Constitution that seemed destined to keep on growing and expanding reached a peak. The Constitution Revision Commission was not the first attempt to

'Constitutional irrelevancies'

When the Constitution Revision Commission began work in 1963, the state Constitution was not unique for its oddities. But it did contain what one political scientist called "an unhealthy share of constitutional irrelevancies." Some of them:

- The state Constitution devotes more words (7,500) to revenue and taxation than are found in all of the U.S. Constitution. It includes detailed descriptions of tax exemptions for Stanford University, Huntington Library, the California School of Mechanical Arts, the California Academy af Sciences, and Cogswell Polytechnical College.
- The Constitution contained a "bill of rights" for fishermen.
- It prohibited dueling and threatened duelers and their seconds with the loss of the right to hold public office and to vote.
- It prohibited the Legislature from banning wrestling and 12-round boxing contests.

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modernize the document, but it was the most successful. Voters rejected proposals to establish constitutional conventions in 1898, 1914, 1920 and 1930. In 1934, the public surprised lawmakers by approving a convention, but the Legislature — made uneasy by the social unrest of the time — failed to pass the law required to call the convention. The Legislature had made a unilateral attempt to revise the Constitution in 1929, and again in 1947, but neither effort had significant impact on pruning its size or reducing its complexity. In 1962, voters approved another attempt to revise the Constitution, and the following year the Legislature created the Constitution Revision Commission.

Three goals

It was a mixed group that undertook that mandate, working without pay and supported by a small staff. At one point in its nine-year life, the commission's membership consisted of 17 lawyers, 11 business executives, 10 educators, 8 executive directors of associations and organizations, 6 members of the Legislature, 4 housewives, a newspaper editor and a physician.

"We had three broad goals," recalls Paul Mason, parliamentarian for the commission, "We wanted a reasonably concise Constitution that established basic political concepts, outlined the organizational framework of government, and limited the power of state government. We had to develop that from an 80,000-word document that was full of obsolescence, irrelevancy and contradiction.

"A constitution with that much verbiage makes it too difficult to use. When you do find what you're looking for, you may have to get a lawyer to unravel its meaning. Most important, a constitution with so much detail is too slow to respond to social change."

The commission did manage to trim the Constitution to 49,000 words. It deleted a massive amount of language that had slipped in at the turn of the century, but half of the commission's proposals have not been acted on by the Legislature or offered to the voters for consideration. Orange County Superior Court Judge Bruce Sumner, who became commission chairman in 1964, fears that many of those proposals may die in the Legislature.

The failure of the commission to achieve a higher ratio of success stems from three factors:

- The commission and the Legislature miscalculated the public's willingness to accept a massive package of revisions in 1968.
- The Legislature appears to have lost interest in the revision project.
- Special interests have stalled action in key areas.

Some setbacks

The commision had a heady success with its first offering of revisions in 1966. A proposal dealing with the legislative, executive and judicial branches was approved by 73 percent of the voters. Sixteen thousand words were struck from the Constitution. A second revision package was prepared for the 1968 ballot, this proposal even more encompassing than the first. But a revision affecting education, local government, state institutions, public utilities, corporations, land and civil services fell more than 700,000 votes short of approval.

The commission attributed the rejection to a case of too much, too soon. Consequently, separate proposals regarding local government, public utilities and corporations, state institutions and land-use exemptions, and civil services went on the June 1970 ballot. Only the local government revision was approved. The civil service proposal was approved in November 1970, and revisions dealing with suffrage, the Legislature, water, land and certain obsolete materials passed last year.

But many of the significant issues that made the 1968 ballot — the proposals concerning education and public utilities among them — have not been given a second opportunity by the Legislature.

Waning interest

Each commission proposal submitted to the voters must be approved by a two-thirds majority of the Legislature. The lawmakers may dispute that they have lost interest in revision but the pace at which commission proposals have been considered has slowed in the last three years — and for two reasons. First, there has been a large turnover in the Legislature since the revision project was begun, and many of the new faces

Mission: impossible

The mission of the Constitution Revision Commission was to rework the state Constitution so that it would provide a concise framework for the operation of the government, a document cleansed of obvious trivia. It didn't always work out that way, as these recollections of former commission member Patterson Hindman suggest:

"It was obvious to all of us that the Horse Racing Board had nothing to do with the Constitution of California. It should be provided in statute. It was that simple. . . . We had a vote that eliminated it from the Constitution. . . . And, oh boy! I never knew there were so many horses to race, horse players, horse tracks, jockeys, horse traders and horse owners . . . who had a flood of funds you wouldn't believe. . . . The Horse Racing Board is still in the Constitution."

Then there was the Fish and Game Commission: "It doesn't have anything to do with the Constitution. . . . In rather routine fashion, we considered taking it out of the Constitution and putting it in statute. And then we had a beautiful soft sell that we all enjoyed. Met a lot of fine people and went on and on. . . . When the vote finally came up, it ended up all the males [on the Constitution Revision Commission] voted for retaining the Fish and Game Commission, and all the women voted against it. . . . Once again the provision remained in the Constitution."

And golf:

"The first thing we had to do was take golf courses out of the Constitution, of all things . . . it turned out there are more golfers than there are horse-racing players. And we heard from everyone . . . ."

And even teachers:

"The teachers now have in the Constitution a provision that they will be paid a minimum of $1,200 a year. It defies all constitutional principles to have a figure like that. And from a practical standpoint, what's $1,200? So we took that out. Well, the California Teachers Association hit us with both hands and both feet. We finally compromised with a sentence that says the Legislature will provide minimum pay for teachers. Which means absolutely nothing, but that settled them down."

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When the California Constitution is supreme

Robert Page Anderson's plea was for his life. John Serrano wanted a better education for his children. Together, their cases demonstrate that California's Constitution has a vitality and impact distinct from and sometimes equal to that of the U.S. Constitution. Without the provisions of the state Constitution to support their causes, both Anderson and Serrano might have failed in their respective quests.

Anderson, a convicted murderer, gave the California Supreme Court an opportunity in February 1972 to declare the death penalty unconstitutional — not by the standards of the federal Constitution, but by the standards of the state's. That distinction insulated the Anderson decision from a subsequent action by the United States Supreme Court on capital punishment and forced death-penalty proponents in California to amend the state Constitution.

In the Serrano case, a suit brought on behalf of all public-school children in California, the state Supreme Court found in August 1971 that California's system of public-school financing violated the equal protection requirements of both the federal and state Constitutions. When the U.S. Supreme Court disagreed in a similar case from Texas, it still left the California decision intact because the state court had again relied on the California Constitution.

The U.S. Supreme Court will not involve itself in issues that do not affect federal rights or turn only on state law. By basing its decisions in *People* v. *Anderson* and *Serrano* v. *Priest* on the state Constitution, the state Supreme Court precluded the possibility of being overruled.

One-word difference

In *Anderson*, the state court noted that, while the U.S. Constitution prohibits cruel *and* unusual punishment, the state Constitution bars cruel *or* unusual punishment. "We have concluded," the court said, "that capital punishment is both cruel and unusual as those terms are defined under . . . the California Constitution and, therefore, that death may not be exacted as punishment for crime in this state."

Five months later, the U.S. Supreme Court found that, as applied to three defendants, the death penalty violated the federal Constitution. But that ruling was far narrower in scope than the California decision, and lawyers are still arguing over its meaning. A popular interpretation of the federal ruling is that it allows the death penalty under carefully defined circumstances.

But the federal ruling had no effect in California until the voters in November 1972 approved Proposition 17 to amend the state Constitution and negate the ruling by the state Supreme Court. California now has a new and narrower death-penalty law, one yet to be tested against the standards of the federal decision. It will go into effect January 1st. But Robert Page Anderson and others who were with him on Death Row when the state Supreme Court acted no longer face the threat of execution.

Territorial imperative

In *Serrano*, the state court considered a public-school financing system based to a large degree on the local property tax. Though the state and federal governments provide supplementary money, the kind of education a child receives in California is directly related to the tax revenue from property in his school district. The state court declared that provisions in the California Constitution are substantially equivalent to the equal protection clause of the 14th Amendment to the U.S. Constitution. It ruled that the state's financing system violated the federal equal protection clause and the state Constitution.

This year, however, the U.S. Supreme Court held in *Rodriguez* v. *San Antonio Independent School District* based on the same arguments raised in *Serrano* — that the financing system does not violate the federal Constitution. That had no impact on the state court's finding that the California system violated the state Constitution, however, and the California Legislature still is grappling with the problem of developing a more equitable system of school support.

Serrano and *Anderson* are not isolated examples of how the state Constitution differs from the federal. Although much of the state's is modeled after the federal, there are substantive differences.

Each document provides a right to bail, for example, but California's treats the subject more precisely and in greater detail and uses that section to list a number of protections for witnesses in criminal prosecutions. Both constitutions provide a right to trial by jury, but again California's specifies that right in more detail. The state Constitution also establishes the grand jury system to function as a check on local government and to screen criminal indictments.

While each constitution guarantees freedom of the press, only the California Constitution deals with criminal libel and its prosecution.

may lack both familiarity with the commission's goals and commitment to their fulfillment. Second, legislative interest in revision peaked in 1966 after passage of a commission proposal that removed constitutional restrictions on legislators' pay.

"I think it is fair to say," Judge Sumner said, "that most of the members of the commission feel that revision doesn't have the same interest on the part of the Legislature that it did at the time we were dealing with the legislative article. We should have held up on the legislative article until we got consideration on all these other areas that are equally important. There just hasn't been a close enough look at what we presented."

The lack of commitment to the goals set for the commission is attested to by the fact that, since 1971, legislators have proposed 451 constitutional amendments of their own. To the relief of Judge Sumner, few of those have cleared committee any more handily than the commission's leftover proposals.

Advocate needed

The reluctance of special interests to support constitutional revision was no surprise. Indeed, special interests made up a large part of the commission's membership. Because the Constitution deals in such detail with so many areas of business and political life in California, opposition to change has been widespread. A con-

(Continued on page 426)

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Who does what in the energy crisis:

• Politicians dramatize
• Commissioners supervise
• And the utilities improvise

Those cartoons showing the old man digging out his 40-year-old long johns aren't really funny. Everyone who is supposed to know anything about the subject claims that Californians will likely be afflicted with an electricity shortage this winter. The extent of the crisis will depend on three major factors — weather conditions, the world oil situation, and the success or failure of state and national power-conservation measures.

California officials have virtually no control over winter temperatures, the supply of petroleum from Arab sheikdoms or the imposition of gasoline rationing by the federal government. But many steps can be taken within the state to reduce energy consumption and allocate wattage. What is the state doing to minimize the crisis? How well is the state prepared to put emergency regulations into effect?

By MAUREEN FITZGERALD

From reading the daily newspapers, one might think Lieutenant Governor Ed Reinecke had been appointed state energy czar and is taking bold steps as head of California's Energy Planning Council to conserve power in California. Reinecke's council, appointed September 28th by Governor Reagan, has reduced the speed limit on selected freeway sections from 70 to 65 mph, and the Lieutenant Governor turned off the night lights on the Capitol dome. But these are merely token steps, and neither Reinecke nor the energy council (nor the Governor) has sufficient authority to take more drastic steps — like reducing the speed limit to 50 mph as President Nixon has urged. The council serves primarily as a vehicle for making recommendations to the Governor's cabinet and urging residents to take voluntary action to reduce energy use.

The Legislature knew that the present crisis was on the way before it adjourned in September. The response was passage of a bill that might have done some good this winter had it been enacted half a dozen years ago. Although hailed as a bold solution to the energy crisis, the measure's main provision established a mechanism for approval or rejection of plans for new power plants. California's problem now, however, is not generating capacity, but fuel. Governor Reagan vetoed that measure at the urging of the private utilities, and the 1973 legislative session produced nothing significant in the field of energy resources.

If and when the shortages hit, the Legislature will be in session and able to enact emergency measures that might do nothing more than allocate available power. But the political process is not rapid, especially with a Republican Governor, a Democratic Legislature and a Capitol filled with candidates of both parties who don't mind putting the energy crisis to their own political advantage. For this reason, chances are not good for a legislative solution to the problem — at least as concerns 1974. Californians will have to look to the state Public Utilities Commission and the major power firms it regulates (Pacific Gas and Electric, Southern California Edison, and San Diego Gas and Electric).

Possible steps

The PUC began work on the potential crisis this summer, but has been hampered by an inability to determine whether there will be a shortage this winter and, if so, how severe. The commission is attempting to measure the likelihood of a pinch and to be prepared for shortages of various degree and duration. Vernon L. Sturgeon, the PUC's president and a former state senator, has indicated, however, some of the steps that could be taken:

- Banning night athletic contests.
- Outlawing billboard and sign lighting.
- Eliminating night shifts.
- Limiting new gas and electricity connections.
- Restricting retail stores to 12 hours a day and five days a week.

The commission launched an investigation to evaluate California's energy and fuel requirements and the expected availability of oil and natural gas through 1976. The PUC did not stop with the fact-finding process, however, but announced that it would explore these suggested methods of alleviating the problem:

- Obtaining additional fuel supplies from present sources and by making federal oil reserves available.
- Getting power companies higher priorities for federal fuel allocations.
- Temporarily relaxing smog standards for sulfur in fuel used for electricity generation.

The author also wrote "Has state government done its part?" in the Journal's *special report on the energy crisis last June.*

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• Taking new or expanded energy-conservation measures.

• Strengthening mutual assistance agreements among utilities for employment in times of crisis.

• Development of new or modification of existing energy-curtailment plans.

On September 25th, after 11 days of hearings, the PUC directed the state's investor-owned utilities to submit plans within 20 days for conserving fuel, curtailing its delivery, and providing for mutual assistance as may become necessary. The order also contained findings that utilities need more fuel to avoid curtailments, that construction of additional oil refineries in the state over the next three years will not solve the problem, and that efforts by utilities to purchase fuel supplies have met with little positive response.

Perhaps more significant was the conclusion that applications to construct and expand power facilities must be more speedily processed. And the commission emphasized that it will take necessary measures to provide electricity equitably and on a non-discriminatory basis. (The PUC recalled that during a drought in 1947-48 a shortage of hydroelectric power developed, and the commission appointed an emergency power director, who told the utilities, in effect, how to distribute available electricity.) The commission ordered the utilities to pursue all possible means of bolstering fuel supplies, including the temporary relaxation of air-pollution regulations. It set 14 dates for possible hearings on the utilities' conservation, curtailment and mutual-assistance plans, with the final date of January 18th. The energy shortage could be upon California by that time, but the commission hopes to complete its hearings without using all 14 dates.

Voluntary plans implemented

The commission also took another step. On November 13th, it ordered the utilities to implement their plans dealing with the voluntary conservation and curtailment of electricity. "The objective to be achieved is a reduction in the use of electric energy by not less than 10 percent of the kilowatt hours consumed in the corresponding month of the prior year," the order stated. This means that 10 percent less electricity is to be used this month than in last December.

The PUC which got less publicity than politicians having far less authority in the matter, urged the public to conserve fuel. "The degree of voluntary participation will be indicative of whether more restrictive, mandatory curtailment procedures will be required," it commented.

Utilities' outlook

How do the utilities plan to cope with the potential crisis? PG&E has submitted a plan calling for several levels of curtailment, depending on how critical the fuel problem becomes. Key categories, ranging from the least to the most acute, are the following:

• *Efficient energy-use programs.* Consumers would be asked to reduce energy usage but not to forsake comfort and convenience.

• *Voluntary load-reduction programs.* Consumers would be asked to give up uses of energy that might otherwise bring comfort or convenience. Large customers have been asked to develop load-reduction plans, and they will be asked to show when power to them can be shut off without destroying business.

• *Voluntary and mandatory percentage-load reductions.* If a voluntary appeal for a percentage cutback does not save enough power, a mandatory plan would go into effect. But PG&E wants these authorized directly by the PUC after hearings, with provisions for appeal, enforcement and protection of health and safety. Once approved, PG&E would notify all of its customers how much power they would be allocated. Small users would have to reduce their wattage depending upon the utility's resources, and large companies would be required to reduce their usage by a specified percentage under a base period. Special arrangements would be made for hospitals and others in the health-and-safety category.

• *Mandatory sequential curtailments.* In the event that the percentage cutbacks don't do the job, PG&E would propose a plan to provide for one-to-three-hour systemwide curtailments of power arranged so that large geographical areas would not be blacked out.

Eventually, the Public Utilities Commision will be forced to hand down some tough decisions establishing a list of priority customers, developing an appeals procedure for those with special problems, and establishing a workable enforcement procedure. The PUC staff has been attempting to identify priority users of electricity, but has been hampered by the fact that the availability of each utility's fuel supply differs. PG&E is in the middle; Southern California Edison is in more trouble; and San Diego Gas and Electric is in relatively better shape.

None of the proposals submitted by the utilities calls for development of a statewide plan to curtail distribution of power. Each utility wants to operate within its own service area. As submitted to the commission, the voluntary conservation proposals are similar but the curtailment plans differ significantly because of differences in the companies' service areas. In its November 13th order, the commission instructed all firms to aim for a 10 percent reduction in consumption, even though some utilities are better off than others. Besides having a visible public impact, this approach indicates that the commission is not necessarily going to allow the companies to manage their own shortages.

The commission itself does not know how it will proceed. Hearings could run into January. Another interim order could make the 10 percent voluntary reduction mandatory. The PUC could wait until its hearings are over before issuing a "final" order.

How the commission proceeds will depend to a large degree on how much fuel is available during the holiday season. The PUC could also be influenced by actions in Sacramento, either from the Reagan administration's Energy Planning Council or from the Legislature, which is scheduled to start work in early January but could be called into special session earlier.

Legislative record

The 1973 Legislature was active in the energy field at the instigation of Senator Alfred Alquist and Assemblyman Charles Warren.

Alquist's SB 283, a power-plant siting proposal, was first killed in the Senate Finance Committee, then revived after the author accepted some amendments proposed by utility-firm lobbyists. On August 21st, the bill was sent to the Assembly on a 27-1 Senate roll call.

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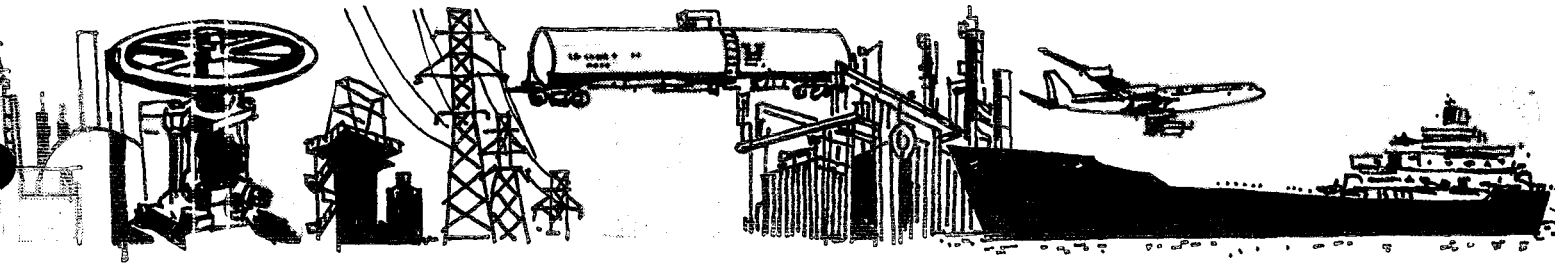

In the Assembly, Warren's Energy Resources Conservation and Development Act, AB 1575, worked its way through two committees over strong utility opposition. It passed the lower house on August 9th without a vote to spare, 41-33. Warren's bill, the product of a special committee on state energy policy, stood little chance of clearing the Senate committees; Alquist's proposal likewise was near death in the Assembly. Then, on September 4th, SB 283 was drastically amended by Alquist to resemble the Warren bill. The renamed Warren-Alquist State Energy Conservation and Development Act cleared the Assembly Ways and Means Committee, over utility lobbyists' protests, by an 11-6 vote on September 13th, next to last day of the session. The next day, Alquist and Warren managed to squeak their package through both houses on 41-32 and 21-16 roll-calls. This strategy — known in the Legislature as "hijacking" — avoided committee action in the Senate on the Warren proposal. The utilities were angered because they had worked with Alquist in making SB 283 acceptable when it left the Senate only to have it come back transformed.

Some changes

Originally, SB 283 would have streamlined the power-plant siting process while cutting down on inefficient uses of energy. As it reached the Governor's desk, however, it had these provisions: A five-member commission with members under strict conflict-of-interest provisions would be established in the Resources Agency. Utilities would be required to provide the commission with long-range energy forecasts every two years, and the commission would be required to report to the Legislature every two years on, among other things, how the state's energy growth could be reduced. The commission also would have been given almost exclusive power to certify sites of power plants after a hearing procedure in which the utility would be required to offer three alternative sites. The commission would be charged with developing an emergency load-curtailment plan, but it could be put into effect only by the Governor or the Legislature. Consumers of electricity would be taxed $32 million in the first year to finance the commission's operation.

Reagan was heavily lobbied by both proponents and opponents. Urging him to sign it were conservation organizations, organized labor and such publicly owned utilities as Los Angeles Water and Power (which is in an especially tight fuel bind). On the other side were the investor-owned utilities, the PUC, the California Manufacturers Association, General Electric (a major vendor of nuclear power plants) and the state Resources Agency. The private utilities claimed that the siting mechanism would delay rather than hinder the approval of power plants and that there was no need for three alternative sites.

Perhaps coincidentally, the PUC issued its interim order while the bill was sitting on Reagan's desk. The PUC order appeared to be responding to some of the very provisions in SB 283. In its conclusion, the commission warned: "There is a need for more expeditious processing of the applications for construction or expansion of power facilities and associated fuel facilities. Proliferation of agencies dealing with such matters could delay further the providing of generating capacity . . . ." Three days later, on September 28th, Reagan announced creation by executive order of the Energy Planning Council with Reinecke in charge. The Governor maintained tight control over the council by loading it with members of his cabinet.

Reagan's veto

That sounded the death knell for the bill, which was returned unsigned on October 2nd. Reagan called SB 283 "an unfinished product which was denied the benefit of committee hearings in the Senate . . . where many unacceptable details would have been worked out if it had been given the full hearing process." He said he hoped that the Legislature would send him a workable siting bill in 1974.

Senator Alquist responded to the veto by accusing the Governor of "fiddling while the state's energy crisis burns . . . . The Governor has now subjected the public to brownouts and blackouts for years to come. He has prevented the state from solving its energy problem and he has insured that much of our energy is wasted by inefficiency."

The Governor anticipated this kind of attack with his announcement that the Reinecke panel would coordinate all state activities in the energy-resource field, would monitor the status of the energy problem and would recommend to the Governor policy alternatives for approval and implementation.

Reinecke's role

Reinecke was not totally unprepared for the job. As Reagan's science advisor he had conducted an energy workshop in May and had distributed various workshop recommendations to agency heads. These recommendations were revised and presented October 11th as a four-paragraph administration statement of its energy policy, backed by a three-page list of actions the state was taking in the energy field. Wesley Bruer, former state geologist, was named coordinator of the council November 1st, with his first job being to coordinate California's role in the federal mandatory allocation program for heating and diesel fuel. On November 13th, Reinecke announced a number of council proposals to ease the crisis.

Reinecke and Reagan have limited power. The Governor is looking toward a federal solution — gasoline rationing. In an election year, legislators will not be eager to discomfort constituents without public demand for bold cutbacks in supplying electricity.

The PUC still hopes that the fuel supply, which improved somewhat in November, will allow avoidance of tough mandatory controls. But if and when the day of curtailment arrives, it will not be public officials but the various utility firms that will be forced to give the bad news of cutbacks to individual consumers.

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The economics of the energy crisis

By ROBERT J. MARKSON

Private and public officials in the resources field have often enough bragged of their foresight in planning and building the energy-producing projects necessary to feed California's standard of living. When power brownouts and blackouts occurred in the East, homes and schools were cold in the Midwest and factories had to be closed, Californians enjoyed seemingly sufficient supplies of everything.

That has changed. The sporadic gasoline shortages of last summer were a harbinger of worse to come. Where utility managers once were confident of keeping the economy running at full speed, they now speak gloomily of slowdowns, cutbacks and sharp changes in a way of life so recently extolled as the finest and most abundant in the world.

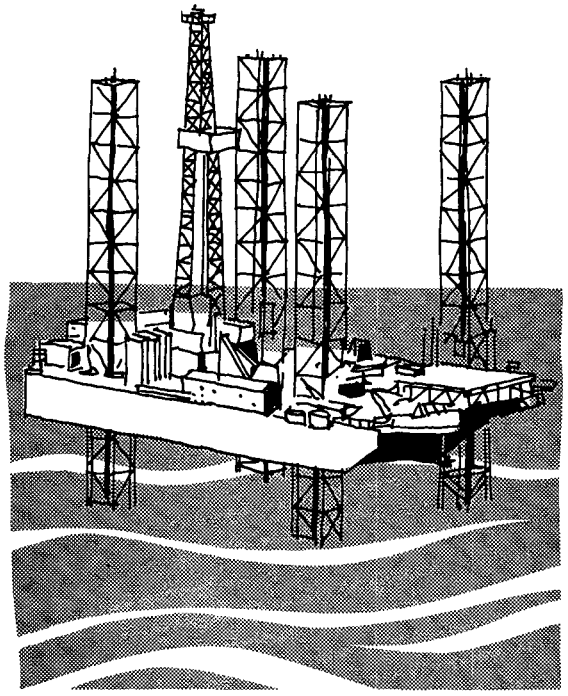
Why the change? There is no simple answer, and solving one problem can also create another. Because California is not self-sufficient in producing energy, what happens nationally and internationally in this domain affects the quality of life in this state as elsewhere. "Energy is the one absolutely indispensable element of modern existence," observed Charles Robinson Jr., chief of the Division of Energy and Environmental Policy for the National Rural Electric Cooperative Association.

Energy — petroleum, coal, natural gas, falling water, underground steam, uranium and all other such elements — is involved in politics, environmental crusades, national security, multinational business, foreign policy, balance of trade, and war.

California's utilities are caught in an energy crunch. Their usual natural-gas supplies dwindling, they have had to seek other sources more costly to tap. Consequently, their lawyers have appeared with increasing frequency before the state Public Utilities Commission, seeking to raise rates to pass their higher costs on to consumers. Some examples of the search for new energy sources:

Southern California Gas Co. The nation's largest distributor of natural gas, So. Cal, is looking for new supplies in Australia, Alaska and the Mackenzie River delta near the Arctic Circle. The intensity of the company's search is reflected in its Cook Inlet operation in Alaska. It plans to build a plant there to liquify natural gas, which requires cooling it to minus 260 degrees, then pump the liquid into huge tankers (costing $135 million each), and transport it to Los Angeles where it would be heated into vapor and fed into the company's distribution system. Despite the hundreds of millions of dollars required to realize this investment, the result would only ease — not solve — So. Cal's fuel problem.

Los Angeles Department of Water and Power. After frantically searching the world over, the department purchased some low-sulphur fuel oil from Italy, Venezuela and Algeria. This is enough to assure the agency



an adequate supply for two additional months, until May. So serious had the department figured its immediate problem to be that it sought authority to impose drastic restrictions on the use of electricity in Los Angeles, including banning night sports events and instituting a system of rotating blackouts in the Los Angeles basin.

The search for new energy sources for Southern California has turned to the southern San Joaquin Valley as a site for one of the world's biggest nuclear power plants, capable eventually of generating 4,400 megawatts of electricity. Cooling such a plant would require using agricultural drainage water and up to 100,000 acre feet of fresh water imported via the California Aqueduct. Checking out the potential site included determining — by paleontologic, stratigraphic, radiometric and paleomagnetic means — that there has been no earth displacement at the site for 500,000 years (a safety standard set up by the Atomic Energy Commission).

The San Joaquin site is being considered because only 52 of the 1,100 miles of California's coastline is usable for nuclear plants, and the available sites are not where generating facilities are needed and would, in any case, stir up conservation groups that want no nuclear units on the coast at all.

Pacific Gas and Electric. PG&E plans to charter several tankers to import oil. To do so, it will have to expand its Moss Landing unloading terminal another 2,000 feet out into Monterey Bay. After President Nixon eased the oil-import quotas last April, PG&E solicited purchases from 23 domestic suppliers. None could meet the demand. PG&E then looked to South America, the Mediterranean and Indonesia, but was unable to contract for enough oil. The company found itself 20 million barrels short of its anticipated 1974 needs. The company has explained its problem this way:

> Curtailments of delivery of natural gas under what were confidently thought to be firm contracts and unforeseen delays in bringing new nuclear generating capacity on the line, have combined to create a greatly increased requirement for fuel oil at a time of real fuel shortage.

What happened was that Canada cut off anticipated deliveries to PG&E, and the Federal Power Commission authorized El Paso Natural Gas Co., PG&E's major supplier, to curtail deliveries by 336 million cubic feet a day in 1974 and 465 million cubic feet a day in 1975.

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Because of this shortage of natural gas, PG&E estimates that it will need 45.5 million barrels of oil for its steam plants next year compared to 2 million barrels in each of the last three years.

Also, PG&E, as most electric utilities, had been counting on moving more deeply and rapidly into nuclear energy. Delays of one sort or another have affected the availability of nuclear power. The Sacramento Municipal Utility District's nuclear plant at Rancho Seco in southern Sacramento County, for example, will not be operating until late next year — more than a year later than planned. The Rancho Seco plant will supply surplus power to PG&E.

These factors underlie the company's insistence that it will need big rate boosts to stay out of financial trouble. If the state PUC grants the eight rate increases PG&E has requested this year, its average household customer will pay an extra $72.12 a year by 1975, a 50 percent increase.

The proposed Alaskan pipeline, an 800-mile link between the vast oil discoveries on the Arctic and the south coast where ocean-going tankers can pick it up, will help ease the oil needs of California and the West. But this is three to five years away. More natural gas will be available from the proposed cross-Canada pipeline, but this also is years away. And those exotic new energy sources — fusion, coal gasification, wind power, geothermal, the fast-breeder atomic reactor which produces energy faster than it consumes the source — are 20 to 40 years from widespread application.

It is virtually impossible for the consumer to assess the fairness of higher costs when the price increases are the result of complex, interrelated decisions negotiated in the privacy of board rooms, diplomatic councils and government bureaus. Even if the reasons underlying these decisions were known, they would be hard to weigh since the information governments use comes from the industry sources.

Overseas markets grow

There are those who contend that the forthcoming serious shortage of energy in this nation is a "created crisis", particularly when it involves oil. Some of the biggest oil companies in the world based in America have rapidly expanded their overseas operations in recent years. This expansion, however, does not help consumers in the United States, but the people of foreign nations. That is where the market is. The demand for crude oil has increased 110 percent in the US in the last 20 years, but in Japan over the same period it increased 2,567 percent. in West Germany, 15,597 percent, and in Italy, 1,079 percent.

There were unaccountable miscalculations in preparing for the energy crunch. The import limitations established by President Eisenhower in 1959 were supposed to protect domestic supplies against cheap foreign oil and encourage domestic exploration and production. The plan failed. Imports increased and domestic production lagged behind demand. So President Nixon last April relaxed the import program — too late to stave off the problem, some critics maintain.

The blame for the shortage has been placed on a lack of refinery capacity. Under the import restrictions, the big companies expanded refinery installations overseas, but not in the U.S. When the import quotas were eased, refinery plans did emerge — but the plants take several years to build.

Some oil people blamed environmentalists for stalling the building of refineries by their concern over conserving the environment. That contention has never been satisfactorily proved, however. The companies failed to build more refineries before the environmental crusades, and there were other factors — inflation, strikes, construction delays and changes in design requirements.

'What America really needs . . .'

We need to cut down, slow up, stay home, run around the block, eat vegetable soup, call up old friends, and read a book once in a while. Americans have always been able to handle austerity, and even adversity. Prosperity's what's been doing us in. — James Reston

Conservation — the watchword

In any case, the energy crunch is here. And, in addition to the utilities' push for more of the conventional sources of energy to meet it, Californians are faced with the need to cut their use of power, to trim basic demand to meet supply. Conservation, therefore, has become the watchword.

The urgency has not struck home everywhere yet, however, and it probably won't until something happens that is more drastic than the present occasional inconveniences. More than electricity for homes or gasoline for pleasure trips is involved. The petrochemical industry, which produces plastics and solvents, is totally dependent upon petroleum. Oil is the basic raw material from which pantyhose are made.

The forthcoming higher costs for almost everything related to energy should eventually restrain consumption goods and encourage more judicious use of gasoline, electricity, and gas. Such conservation could cause the nation's consumption level to peak, which in turn could lead to a more prudent usage of natural resources. If this happened, the threat to the natural environment would be reduced.

Unfortunately, things don't work out so neatly. The pressures to increase income to maintain present standards of buying and consuming, the moral obligation of keeping farming and manufacturing going at a high rate to help poorer nations, the unquenchable desire of the poor to improve their material well-being — these are desires as powerful as the growing necessity to conserve.

Quest for profits

To resolve conflicting demands and needs will require leadership. No national or state energy policies yet exist — only many policies set by a multitude of agencies.

Until the inexhaustible supply of energy from the sea or the sun can be inexpensively harnessed, an energy "crisis" will be with us — and the drive for profits will lie at its center. The utilities are going to insist upon their "reasonable rates of return". The multinational oil companies are not sinking billions of dollars into new oil fields and pipelines just for the fun of it. Meanwhile, the general public will not be well served until the Congress and the California Legislature create agencies to establish and guide approaches to preventing energy catastrophes.

The alternative is nationalization of the companies that produce energy, the absolutely indispensable element.

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Bad Texts + Untrained Teachers × Baffled Parents = D+

THE NEW MATH

By RUTH PRITCHARD

New Math is under attack. It all began when a California engineer saw the statewide math test scores for the last four years charted on a graph on which they dropped like a 1929 stock market index. He sought out the textbooks and solicited opinions from parents, teachers, school-board members and colleges. He found that neither he nor they could understand a first-grade New Math textbook. If none of them could understand a first-grade math book, the engineer wondered, how in the name of Euclid could a six-year-old?

As it happened, the engineer was Leroy Greene, who is also Chairman of the Assembly Education Committee. Last April, therefore, his committee spent two days hearing testimony from teachers, parents, college professors, the Department of Education, publishers and authors of New Math books.

Greene was not alone in his concern, however. New Math got a kick in the multiplier earlier this year with publication of *Why Johnny Can't Add,* written by a long-time critic of New Math, Dr. Morris Kline, professor of mathematics at New York University. "The New Math is a failure," Kline declared. "The concept did not belong in the schools in the first place." Short of "a totally new reform", he favored going back to the old math, although Kline conceded that it hadn't done the job much better. "While Johnny can't add with the New Math," Kline pointed out, "he couldn't add with the old math either. Oh, we did compute a little better in the old days, but it was not because we understood very much. We were drilled and drilled until it came out our ears."

Pinpointing deficiencies

California is the only state with a record of four years of consecutive testing of math students and the only state with a universal math program in grades 1 through 12. Because of statewide textbook adoption, the same program is used in all California schools. Faced with steadily declining math scores in annual tests of 6th and 12th grade pupils, Wilson Riles, Superintendent of Public Instruction, ordered a study of 15,000 randomly selected students in grades 4 through 8 to pinpoint the deficiencies.

The test results showed not only that the children couldn't add; they couldn't subtract, multiply or divide, either. The eighth-graders did worst, but all children tested were poor in computational skills. They also had trouble computing with fractions, decimals and percentages. They did a little better with application skills (usually tested with word problems), and were best in concept-comprehension skills (understanding the relationships between numbers in arithmetic, algebra, and geometry). But they fell below national averages in all areas.

The picture of student math achievement nationally will not be known until next June, when results are announced of a survey now being made by the National Assessment of Educational Progress, a project of the Education Commission of the States. Other test results are inconclusive because of too many variables.

Even in California, some question the validity of the state tests as an accurate reflection of New Math results. Carolyn Aho, math specialist with the San Francisco schools, explained, "Even though we have had several years' experience with the New Math and scores have been poor, there have been other factors. We started busing, which was a turmoil for children and teachers. We have continually had our money cut. And there have been other problems — the morale has been bad."

Dr. Jeremy Kilpatrick, associate professor of mathematics at Columbia Teachers College and formerly with the School Mathematics Study Group at Stanford University, is also hesitant about unqualified acceptance of what test scores seem to indicate. "I don't think the scores invalidate the New Math approach and I don't think it amounts to failure," he said. "The reasons for the computational decline are very complicated. They have to do with social factors, with changes going on in the classroom, with teachers expected to do more in every subject field — and their not being able to keep abreast of things. This cannot be laid on the New Math.

Even the "father of New Math", Professor E. G. Begle of Stanford, concedes that computational skills may have suffered slightly at the expense of conceptual skills, but insists that "the net gain is greater." The problem, he said, is not in the concept of the New Math, but in its application. The current textbooks are inadequate, he explained.

What is New Math?

According to Dr. John Kelley, professor of mathematics at the University of California, Berkeley, "The easiest way to explain New Math is that it is math with understanding. That's about all it comes to." To Kelley, "If you learn by rote, it's trickery if you are able to work a problem with it. But if you understand why something happens, then, even if you forget the tables, you can work it out again."

The author, a former editor with a textbook publishing company, is a free-lance writer.

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Kline disagrees. Understanding is not the extent of the New Math being taught in the schools today, he contends. The New Math was developed by pure mathematicians and the textbooks written by them go into detail of value only to mathematicians and scientists, he argues. "The whole approach is wrong. It presents math deductively — that is, it starts with axioms as one does in traditional high school geometry and then proves theorems." Math isn't learned by logical structure, Kline claims. "One learns by intuitive experience, and this approach is not used in the present New Math textbooks."

This criticism of New Math textbooks echoes a basic complaint from math specialists, teachers, and parents. They say that the texts appear to have been written for budding nuclear scientists. Assemblyman Greene wants kids to be learning to adapt math to keep household accounts, figure out timetables, keep a tally on stock, and calculate how much paint to buy for their living rooms, rather than being required to learn more symbols than an IBM memory bank. It was the rote memorization of endless number combinations that adversaries of traditional math deplored, Greene argued, but the cure has been worse. Now, youngsters in elementary school must learn more than 700 precise definitions and, in effect, a new mathematical language.

Four problem areas

Should the New Math be thrown out?

"No," says Wilson Riles. "There are too many students succeeding in college as a result of New Math." Riles thinks that the trouble lies in under-emphasizing computational skills where the textbooks go into reasons and understanding. "As a result, we have kids who can think and understand theory but who can't compute correctly." He would right the imbalance.

Dr. Alex Law, chief of program evaluation and research at the Department of Education, analyzed the test results and identified these problem areas:

- The schools introduced New Math too quickly. Elementary teachers lacked sufficient background in math and were given too little preparation for teaching the New Math.
- The textbooks were difficult, complex, poorly organized and inadequate, yet undertrained teachers clung to them in hope of finding help they didn't get.
- Tests left over from the traditional math did not adequately measure what children were learning in New Math.
- Most parents didn't understand or like New Math, and communicated their dissatisfaction to their children.

"The New Math frightened the hell out of teachers," declared UC's Dr. Kelley. "They have not got time to read those bloody teacher manuals, and they got no help from teacher colleges and not enough got in-service training." Kelley termed teacher training in math a national scandal. "One learns to teach like riding a bicycle — by trying it and seeing other people do it. A large portion of teachers in the school system have never seen anyone teach math except their master teacher — and that was probably traditional math. It just wasn't fair the way they were thrown into it."

The importance of in-service training is illustrated by the fact that pupils of teachers trained under the Miller-Math program performed significantly higher in both comprehension and computation than pupils of other teachers. When the Reagan administration cut its funding in 1972, a non-profit organization, the Center for the Improvement of Mathematics Education, continued the program, conducting two-week in-service training workshops — and with equal success.

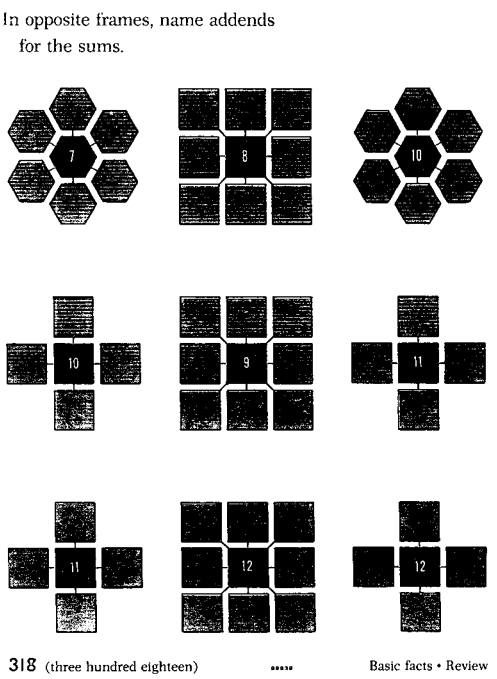
Next to in-service training, the teacher's best friend is a math resource teacher and discussions with other teachers. "If a teacher hears a more experienced teacher say 'skip the addends', she gets more confidence in her own feelings about the textbook," asserts a pair of San Francisco math resource teachers, Joan Higgins and Ernestine Trujillo.

Inadequate texts and tests

The trouble with many of the available textbooks is the overemphasis on the mathematics language, according to Bob Tardif, head of the Department of Education's math task force. He and Greene agree that there is no need for children to speak fluent mathematics in elementary school, and students going on to higher math can learn its precise language later.

The practical problem of using the present textbooks was succinctly stated by Lee Mahon, Curriculum Director of San Francisco's schools. "First, they assume every child can read. Even for those who can, the subject matter is difficult and the book skips from subject to subject without drill and reinforcement." Of 100 teachers, she said, 82 are using supplementary materials in addition to the text. These are computational materials they found elsewhere or wrote themselves.

One teacher who has practically abandoned the text is Dee Angelo, a 6th-grade teacher in Sacramento County. "There are only a few parts of the book that will work for my kids," she said. "Most of them are working well below grade level and they have no idea of the concepts, and the vocabulary just confuses them." So Angelo has gone back to the traditional way of teaching math with repeated drilling. Knowing that the standardized tests given at the end of the school year



Page from first-grade New Math text

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will have fractions and decimals, she makes a point of drilling her pupils in these regardless of where the subject might be covered in the textbook.

This teacher's experience raises the question of the validity of the standardized tests to evaluate the New Math. They are not adequate for this, according to Joseph Caravella, of the National Council of Teachers of Mathematics. "New Math," he said, "is a process. It cannot be measured with the old tests for computational skills."

Parental attitude

Despite night school courses for parents and books like Evelyn Sharp's *A Parent's Guide to More New Math,* many parents still neither like nor understand the New Math. "I don't want my children to add by counting on their fingers and toes," declared Alice Nauman of Sacramento, a volunteer elementary school tutor who found children subtracting 9 from 25 by making 25 lines on paper, crossing out nine and counting the remainder. "I don't buy the idea that they will catch up later." She plans to drill her children at home. "I don't think parents should swallow the New Math pill whole."

Kline, Kelley, Tardif, and most of the experts back Assemblyman Greene's contention that there is no need for young children to know the language and theories of math, particularly at the primary grades. Kelley advises a parent with a child having trouble with addition and subtraction to teach him how to play blackjack. "If he starts playing blackjack with his brother, I guarantee you he'll know all the combinations through 21 in just three days," he said. Indeed, Greene sees no need for a textbook in the first three grades. "If books could teach," quipped Tardif, "We'd call them teachers," The most important need, he and Kelley agree, is to have teachers who really understand elementary math. Most elementary teachers have had little or no training in math beyond high school, he claimed.

Leroy Greene

Kelley also sees too little emphasis on math. "Without question, reading and language is the most important subject," he conceded. "Without possible question, math is second. If you are competent in these subjects you may enter any university and study anything you wish."

Legislative inquiry

The Legislative Analyst asked the Department of Education to provide detailed information on student math deficiencies and why they exist. The special tests of students now in progress resulted from this.

The Legislature also required the department to spell out the math skills pupils should have by the time they leave sixth grade and then see that they acquire them. In response, Wilson Riles set up a special departmental task force headed by Tardif. By February, the group is to develop criteria for screening math materials, particularly in reference to computation, and to work with the Curriculum Development and Supplemental Materials Commission in writing new guidelines for school districts and publishers. Its next task will be to find out what programs children learn from, identify what contributes to good math learning and then figure out how to introduce its elements in all California public schools. A report on this is due by June.

It will likely take at least five years to find a complete solution. Math texts are to be considered for adoption in 1974. The guidelines for publishers will be ready by then, but the publishers' new textbooks are 80 per cent complete at this point. Extensive last-minute revisions to meet California requirements are costly and impractical.

However, the publishers report that their forthcoming editions will be much different from their predecessors. Landon Risteen, senior vice president of Scott, Foreman and Company, America's largest elementary textbook publisher, said his company's new series is in line with California thinking. Richard Anderson, senior editor of mathematics for Ginn & Company, said it now has a New Math program that even parents can understand. "It maintains much of the best of the modern math," he said. "But I think we've eliminated the communications problem."

But what about the teachers themselves? Fifty mathematicians and educators from all over the country met in the clean, pure air of Aspen, Colorado, this summer to try to clear up math pollution. Wary from the last decade of experience with the New Math, they endorsed none of the new approaches demonstrated, but instead drew up criteria to reform math programs. And tops on their list was teacher training, which they termed the biggest factor in the success or failure of math programs. The Aspen group called on publishers to supply teacher-training materials along with new math programs, and urged schools to make math training a requirement for elementary teachers.

The New Math as originally envisioned is going out of the schools along with the theoretical language and abstractions that accompanied it. In its place will be a modified version with emphasis on both computation and understanding. Children will be required to know how to add, substract, multiply and divide — as well as to grasp basic concepts underlying math. They will be taught how to solve problems they will face in day-to-day living, and also the methods of mathematical thinking that they will need as they move on into algebra and higher mathematics.

Update . . .

Sponsors claim June ballot spot for open-government initiative

Common Cause and the People's Lobby, sponsors of an initiative to tighten campaign regulations, lobby-reporting requirements and conflict-of-interest laws, announced that they gathered nearly a half a million voter signatures by Thanksgiving. The initiative needs 326,000 valid signatures by mid-December to qualify for the June ballot. The sponsors reported that petitions had come from 53 of the state's 58 counties and that no professional circulators were used.

In the *Journal*'s discussion of the initiative in last month's issue, "Legislators are prodded to act, but not enough to head off reformers," a typographical error slipped into the summary of the initiative on page 375. Under campaign spending limits, party state central committees and affiliated bodies were listed as being limited to spending 4¢ a voting-age citizen; the correct figure is 1¢.

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The state's new stepping stones to higher office

By ED SALZMAN

Not many years ago, if an ambitious California politician were asked what statewide position he would prefer to hold, other than Governor, he probably would have selected Attorney General. That was the stepping stone to the Governor's office for two of the state's three most important Governors in this generation (Earl Warren and Edmund G. Brown, with a third being Ronald Reagan). If this politician were more interested in patronage than prestige, he probably would have picked the office of Controller. That is because the Controller for many years had a built-in source of campaign funds through appointment of inheritance-tax appraisers.

But look at the potential lineup for state constitutional offices at next June's primary: Even with incumbent Attorney General Evelle J. Younger about to jump into the Governor's race, only one Democrat (Assemblyman Walter Karabian) and one Republican (Senator George Deukmejian) look like sure-fire candidates. Karabian already has announced his candidacy. Two other Democrats, Assemblyman Jack Fenton and Board of Equalization member William M. Bennett, have been talking about running but have not taken the crucial step of socking away big bankrolls for the race.

The Controller situation is almost a carbon copy. The GOP incumbent, Houston I. Flournoy, is an announced candidate for Governor. Where are the flocks of ambitious politicians scrambling for his job? Supervisor Robert Mendelsohn of San Francisco and a political neophyte, Los Angeles businessman John C. O'Keefe, are the only announced Democratic candidates. Assemblyman William T. Bagley, a close friend of Flournoy, is an all-but-announced GOP contender. Only two others, Democratic Assemblyman Ken Cory, and the Republican state director of consumer affairs, John Kehoe, have given any indication that they might run for Controller.

Where the action is

While the jobs of Controller and Attorney General appear to have lost some of their political sex appeal, two other constitutional offices have come to the fore in their place — Lieutenant Governor and Secretary of State. Already, there are 15 potential candidates to succeed Republican Ed Reinecke as Lieutenant Governor and 10 to replace Edmund G. Brown Jr., as Secretary of State.

The position of Lieutenant Governor has gained appeal because it has become recognized as a likely launch pad for a gubernatorial campaign. Republican Robert H. Finch was elected to the office in 1966 with Governor Reagan, and attained national status because of his close relationship with President Nixon. (In fact, Nixon offered Finch the vice presidential nomination in 1968 before it went to Spiro Agnew.) After Finch's resignation to join the Nixon administration, Reagan appointed Reinecke, then a Congressman, to replace Finch, with the understanding that the Governor was choosing his own successor. (Since then, Reagan has declared his neutrality in the 1974 Governor's race, and his so-called kitchen cabinet tried to get Reinecke to withdraw.)

Three years ago, state Senator John L. Harmer of Glendale ran for Republican nomination for Attorney General and was defeated by Younger. Instead of taking another shot at Attorney General in 1974 with Younger out of the race, he is shooting for Lieutenant Governor. And he is doing so even though he has already proved that he has more statewide appeal than Senator Deukmejian, his only probable AG opponent, and will face strong opposition for the nomination from John G. Veneman, former Assemblyman and federal undersecretary of health, education and welfare. Veneman is closely allied with Finch, Flournoy and Bagley in the progressive branch of the Republican Party.

Mervyn Dymally

The Democratic side is even more loaded with potential candidates of substance, including three of the 20 Democratic members of the state Senate — Mervyn Dymally, David Roberti and George Zenovich. Dymally has been working hard for about a year lining up support, and appears ready to make the run regardless of the state Supreme Court reapportionment decision. (If the court rules that senators from odd-numbered districts elected in 1972 will keep their seats until 1976, there could be several senators who will take "free-ride" shots at statewide office in 1974, such as Senator Alfred Alquist did in 1970 when he ran against Reinecke for Lieutenant Governor.) Roberti and Zenovich have lofted trial balloons, but have not displayed the same willingness to gamble as Dymally.

Secretary of state

Jerry Brown must get almost all the credit, or blame, for making Secretary of State such a popular

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office. For most of the 20th Century, the office had been held by two men, Republicans Frank C. Jordan and his son, Frank M. Jordan. Under the Jordans, the office was run in a low-key manner more like a bureaucratic than a political branch of government. In his first three years in office, Brown has probably issued more press releases than the Jordans did in 55 years. Brown has utilized every conceivable aspect of his job to get publicity and build himself into the front-runner for the Democratic nomination for Governor next year. Now that Brown has shown the political world how it can be done, there is no scarcity of candidates for his job.

On the Democratic side, no single strong contender has yet emerged. Women's organizations are eyeing the office, but there may be two female candidates — Cathy O'Neill of Los Angeles, who came within 3,500 votes of unseating Senator Robert Stevens in 1972 and thus becoming the first woman in history elected to the upper house, and Assemblywoman March K. Fong of Oakland, who has far more political experience than O'Neill. Activist women fear that if both run neither will win and the nominee then might be Chicano leader Herman Sillas of Los Angeles.

The two leading Republican candidates are Brian Van Camp, 32-year-old state commissioner of corporations, and John G. Schmitz, former state Senator and Congressman. Van Camp (as well as Dr. Earl Brian, state health and welfare secretary and a probable candidate for U.S. Senate) has been encouraged to seek office by Governor Reagan. Schmitz, who left the GOP in 1972 to run for President on the American Independent Party ticket, has announced that he will seek to return to politics by running for Brown's job. Schmitz, a member of the John Birch Society, has never shown any special interest in the operations of the Secretary of State's office but has been more concerned with advancing the conservative position on major issues. This in itself illustrates how dramatically California politicians have changed their view of the office.

Van Camp is a representative of the under-40 set that has become prominent in the pre-primary jockeying for statewide positions. Among the others are Brian and O'Neill, both 31; Roberti, 34; Mendelsohn and Karabian, 35; Brown and Cory, 36, and Assembly Speaker Bob Moretti, 37. There is a general belief among political strategists that the public will be looking for new young faces this year because of resentment, emanating from the Watergate scandals, against "old pols".

Three-term treasurer?

One old pol who apparently will have no difficulty, at least until the November election, is state Treasurer Ivy Baker Priest, who has been active in Republican politics for several decades. Priest, 68, who first ran for public office (unsuccessfully) in 1934, is expected early next year to announce her candidacy for a third term. Only a few months ago, most politicians had assumed that she'd retire because she had withdrawn from public life following the successive deaths of her only son and her husband. But after a period of recuperation with close friends in Palm Springs, she started making public appearances again and now appears to have regained her former vigor. The tipoff to her run for a third term came April 1st, when she appointed her 1970 campaign manager, Bob Schulke, as assistant treasurer. This was followed by a successful fund-raising event in Los Angeles.

Ivy Baker Priest

As yet, no Democrat has announced an intention of running for the right to oppose Priest in November.

The current list of potential candidates

Democrats

Governor. Mayor Joseph Alioto of San Francisco; Secretary of State Edmund G. (Jerry) Brown Jr.; Assembly Speaker Bob Moretti; Senator George Moscone of San Francisco; University of California Regent William Matson Roth; Representative Jerome R. Waldie; Herbert Hafif, Claremont attorney.

United States Senator. Incumbent Alan Cranston; Howard L. Gifford of Patterson.

Lieutenant Governor. Roger Boas, former San Francisco supervisor; state Senators Mervyn Dymally, David Roberti and George Zenovich; Howard Miller, University of Southern California professor; John Merlo, Chico attorney; Terry Goggin, administrative assistant to Representative George E. Brown Jr.; Bernice Slater, Sacramento broadcaster.

Controller. Assemblyman Ken Cory of Orange County; Supervisor Robert Mendelsohn of San Francisco; John C. O'Keefe, Los Angeles businessman.

Attorney General. William Bennett, member of the state Board of Equalization; Assemblymen Walter Karabian and Jack R. Fenton.

Treasurer. Milton Gordon, former state real estate commissioner and unsuccessful Democratic nominee in 1970; Gray Davis, finance aide to Mayor Tom Bradley of Los Angeles.

Secretary of State. William Durley, Sacramento County Clerk; Assemblywoman March K. Fong of Oakland; Senator Alan Short of Stockton; Herman Sillas, Los Angeles attorney and Chicano leader; Cathy O'Neill of Los Angeles, 1972 state Senate candidate; James R. Harvey, Arcadia businessman; James L. Shinn, Lake County clerk-recorder.

Republicans

Governor. Controller Houston I. Flournoy, Lieutenant Governor Ed Reinecke, Attorney General Evelle Younger, former presidential counselor Robert H. Finch, Caspar W. Weinberger, Secretary of HEW; Ivaldo Lenci, Sacramento businessman.

United States Senator. Finch, Mayor Pete Wilson of San Diego, state Senator H. L. (Bill) Richardson of Arcadia; Dr. Earl Brian, state secretary of health and welfare; William S. Banowsky, president of Pepperdine College; Gordon Paul Smith, former state finance director.

Lieutenant Governor. Joe Blatchford, former Peace Corps director; John Veneman, former undersecretary of health, education and welfare; H. D. Timm Williams, former state Indian affairs advisor; Senator John L. Harmer of Glendale; Assemblyman Floyd Wakefield of Downey; Ben Fernandez, Encino business consultant.

Controller. Assemblyman William Bagley of San Rafael, John Kehoe, state director of consumer affairs.

Attorney General. Younger and state Senator George Deukmejian.

Treasurer. Incumbent Ivy Baker Priest.

Secretary of State. Mike Montgomery, South Pasadena councilman; James Flournoy, unsuccessful 1970 candidate for Secretary of State; John G. Schmitz, 1972 American Independent Party candidate for President; Brian Van Camp, corporations commissioner.

Non-Partisan

Superintendent of Public Instruction. Incumbent Wilson Riles.

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Who's who in party loyalty rankings

Voters in California's north coast region stretching from north of San Francisco to the Oregon border will likely be making a novel choice next year in the post-redistricting contest for state Senate. A detailed analysis of key floor votes of the 1973 legislative sessions reveals that these voters will choose between the Senate's most Republican Democrat and its most Democratic Republican. Randolph Collier, earthy 70-year-old dean of the Senate, has announced that he will move his legal residence from inland Siskiyou County to the coast so that he can run in the new 2nd district. (His actual home is in Sacramento.) This will pit Collier, the Democrat, against freshman Republican Senator Peter Behr of Marin County, an urbane 58-year-old environmentalist who has shaken the Legislature's upper house with his successful campaign to record committee votes as well as with his patrician manner and matching vocabulary.

The vote analysis shows that Behr voted contrary to a majority of his fellow Republicans 60 percent of the time, while Collier bolted the Democratic majority 35 percent of the time. Their penchant for deviating from their parties' majority view was fortified after adjournment when Collier supported the tax-limitation initiative sponsored by Governor Reagan, and Behr, although reticent, conceded his opposition to Proposition 1.

Measuring independence

To measure the legislators' tendency to vote independent of their party majority, all bills listed in the *Journal*'s voting records during the last session were examined. Two categories of votes were rejected: unanimity among members of one party in either house and close division within the party. Further, absentees were assumed to follow party lines. In the remaining votes, there was still a division, but a clear majority of a party's representatives voted together on a given bill.

SENATE

Democrats. Most of the independent votes among 20 Democrats on 60 roll calls were cast by the party's more conservative members, headed by Collier. Five

Senators Peter Behr and Randolph Collier

Democrats deviated from their party's majority at least 20% of the time:

Randolph Collier of Siskiyou County	35%
John W. Holmdahl of Alameda County and James Q. Wedworth of Los Angeles County	27%
Walter Stiern of Bakersfield	23%
Lawrence Walsh of Los Angeles County	22%

At the other extreme were 11 senators — a majority of Senate Democrats — who strayed from the party 10 percent of the time or less. Most are usually considered to be politically "liberal" by those who identify legislators as belonging to one sector or another of the political spectrum:

Alfred Song of Los Angeles County	3%
David Roberti of Los Angeles	5%
Alfred Alquist of San Jose, Alan Robbins of Los Angeles County and George Zenovich of Fresno	7%
Mervyn Dymally of Los Angeles, Alan Short of Stockton, James Mills of San Diego and George Moscone of San Francisco	8%
Albert Rodda of Sacramento and Nicholas Petris of Oakland	10%

Only four senators fell between these two groups — Anthony Beilenson of Beverly Hills, 17%; Ralph Dills of Los Angeles, 15%; Arlen Gregorio of San Mateo, 17%; and Joseph Kennick of Long Beach, 12%. They are anything but identical in political outlook.

Republicans. Of 86 roll calls considered, Senator Behr cast 52 votes different from his party's majority (60.5%). Milton Marks of San Francisco followed by breaking ranks 57% of the time, and John Nejedly of

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Contra Costa County was third at 40%. While Behr and Marks often vote with the Democrats, Nejedly is a maverick with a penchant for delving into the technical details of legislation. Only one other Senator, Clark Bradley of San Jose, spends more time than Nejedly picking apart provisions of bills. Bradley, who will usually vote no when in doubt, posted a 20% independent vote record. Other Republican Senators fell below that, but only one Senator was below 10%—Robert Lagomarsino of Ventura County; he strayed 8% of the time. The others:

John L. Harmer of Glendale, William Coombs of San Bernardino County, and Jack Schrade of San Diego ..10%
Craig Biddle of Riverside ..12%
Fred Marler of Redding and James Whetmore of Orange County ..13%
Clair Berryhill of Stanislaus County, George Deukmejian of Long Beach, John Stull of San Diego County and Howard Way of Tulare ..14%
Dennis Carpenter of Orange County and Robert Stevens of Los Angeles ..16%
Donald Grunsky of Watsonville and H. L. Richardson of Arcadia ..17%
Lou Cusanovich of Van Nuys ..19%

ASSEMBLY

Democrats. Few Assembly Democrats broke with the party majority in the 51 roll calls examined. One, Assemblywoman March Fong of Oakland, posted a perfect record as a party loyalist — the only member of either house to do so. A dozen others strayed on only one or two votes, however:

One — John Burton of San Francisco, Kenneth Cory of Orange County, Ray Gonzales of Bakersfield, Frank Holoman of Los Angeles, Ken Meade of Oakland and Leon Ralph of Los Angeles.
Two — Richard Alatorre of Los Angeles, Willie Brown of San Francisco, Julian Dixon of Los Angeles, John Dunlap of Napa, Jim Keysor of Los Angeles County and Alan Sieroty of Beverly Hills.

These "loyalists" comprise the hard core of the liberal bloc in the Assembly. Even Speaker Bob Moretti bolted his party's majority on three occasions.

By far the least faithful Democrat, on the other hand, was Assemblywoman Pauline Davis of Plumas County. She left the party majority 43% of the time. Seven other Democrats had percentages exceeding 20%:

Speaker pro Tempore Carlos Bee of Alameda County 27%
Mike Cullen of Long Beach ..26%
Alister McAlister of Santa Clara County, Walter Powers of Sacramento and Vincent Thomas of Los Angeles ..24%
John Thurman of Modesto and Joe Gonsalves of Los Angeles County ..22%

Here is the party-loyalty ranking of the other Assembly Democrats:

Howard Berman of Los Angeles, Alex Garcia of Los Angeles, Speaker Moretti, Charles Warren of Los Angeles and Henry Waxman of Los Angeles ..6%
Bill Greene of Los Angeles, Walter Ingalls of Riverside, John Knox of Richmond, John Miller of Berkeley and John Vasconcellos of San Jose ..8%
Daniel Boatwright of Contra Costa County, Leroy Greene of Sacramento, Leo McCarthy of San Francisco and John Quimby of San Bernardino County ..10%
Wadie Deddeh of San Diego County, Jack Fenton of Los Angeles County, John Foran of San Francisco, Harvey Johnson of Los Angeles County, Lawrence Kapiloff of San Diego, Walter Karabian of Los Angeles County, Barry Keene of Santa Rosa and Joe Montoya of Los Angeles County ..12%
Ken MacDonald of Ventura County, Bob Wilson of San Diego and Edwin Z'berg of Sacramento ..14%
Peter Chacon of San Diego and Louis Papan of San Mateo County ..18%

Republicans. Analysis of the voting records of 31 lower house Republicans showed little party loyalty. More than half the 19 Assembly Republicans strayed more than 20% of the time. (These statistics are distorted slightly, however. While the records of most of the members were based on 69 roll calls, those of four GOP Assemblymen elected in special elections during the year were based on far fewer votes.)

It was one of the Republicans elected during the session, Doug Carter of Stockton, who voted least with the party majority, straying 42% of the time, on 10 of 24 votes. (The fact that he represents a district with a heavy Democratic majority is significant.) Among those who spent the entire year in the Assembly, Floyd Wakefield of Los Angeles County deviated on 41% of the votes. Seventeen other Republicans were above 20%, including Floor Leader Robert Beverly of Los Angeles (23%) and GOP Caucus Chairman Frank Murphy of Santa Cruz (28%). Only one Assembly Republican, Eugene Chappie of El Dorado County, voted with a majority of his colleagues more than 90% of the time.

Here is the list of Republicans, starting with those with the greatest tendency to stray on party votes:

Carter ..42%
Wakefield ..41%
Mike Antonovich of Glendale, Robert Badham of Orange County and L. E. Collier of Los Angeles County ..32%
Richard Hayden of Santa Clara County ..30%
Robert H. Burke of Orange County ..29%
Ken Maddy of Fresno and Murphy ..28%
William Bagley of Marin County and Jerry Lewis of San Bernardino County ..26%
Robert Cline of Los Angeles and Bill Lancaster of Covina ..25%
Paul Bannai of Gardena ..24%
Beverly and Paul Priolo of Los Angeles ..23%
Don MacGillivray of Santa Barbara ..22%
William Craven of San Diego ..21%
Gordon Duffy of Hanford ..20%
Dixon Arnett of Redwood City and Ernest Mobley of Fresno County ..19%
Robert Nimmo of San Luis Obispo County and Bob Wood of Monterey County ..17%
John Briggs of Orange County, Newton Russell of Los Angeles County and Ray Seeley of Riverside County 16%
Robert McLennan of Los Angeles County ..15%
Frank Lanterman of Los Angeles County ..14%
Ray Johnson of Chico ..13%
Bill Bond of Long Beach ..12%
Chappie ..7%

Cohesive Democrats

Perhaps the most significant lesson to be drawn from this analysis — aside from observations about the voting patterns of individual legislators — is that the Legislature's Democrats are more cohesive than their Republican colleagues. That runs counter to traditional views of the two parties. In both houses, a majority of Democrats stuck together on almost all roll calls. But the Republicans showed no such consistency, and the average GOP representative broke with most of his partisan colleagues 20% of the time.

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A majority of the population of Oakland — California's fifth largest city — is composed of so-called minority groups. And yet, its Mayor, a white Republican businessman, easily defeated all challengers last spring in winning a second term. Why the white downtown-business-oriented establishment, a decided minority, continues to run City Hall is explained less by its economic power than by the political fragmentation of any potential new majority.

How the whites keep control of Oakland

By ROBERT FEINBAUM

Californians became aware of Oakland unseasonably early in 1973, even before the A's could replace the Raiders in the state's sports pages. The unusual attention focused on this city at the other end of the bridge from San Francisco stemmed from the announcement by Bobby Seale, cofounder of the Black Panther Party, that he would seek the Mayor's office.

Diluted minorities

Elections for Mayor and City Council in Oakland are officially nonpartisan. Normally, they have attracted no special attention, since municipal affairs are administered by a well-paid professional manager. The city's elected officials, with little staff and part-time salaries, have been content to let the manager run things. Since council members are elected citywide (even though all but one must reside in specific districts) the chances of concentrated groups of minorities to elect their own representatives are diluted. Citywide campaigns are also more expensive than district campaigns, and, in fact, new members have often come to the City Council by appointment rather than popular election. Once on board, the chances of remaining have been very good — a situation reminiscent of the cynic's phrase, "annointment by appointment."

These factors have contributed to the business establishment's continuing domination of city politics. As Mayor John Reading, himself the former owner of a food-processing plant, told the Real Estate Board, "Economic stability is our way. You can do more to solve problems through economic activity than any other way."

Oakland is divided, geographically and sociologically. There is a white, middle- and upper-middle-class section in the Oakland hills and around Lake Merritt downtown, and much of the city's black and Spanish-speaking population occupies the flatlands stretching to the shores of San Francisco Bay. As in other central cities, the white middle class has been moving to the suburbs and minority groups have moved in to replace them. In the 1960's, the black population increased by nearly half while the white population dropped by one-fifth, and blacks now make up 35 percent of Oakland's residents. The Spanish-surnamed constitute about 10 percent, and other non-whites, including Chinese, Japanese and Indians another six percent. Today, Oakland's minorities exceed the white population.

Since the end of the Second World War, the city has had a heavy majority of Democratic voters, currently 70 percent of the registered voters. And while all of Oakland's representatives in the state Legislature and in Congress are Democrats, Mayor Reading is a Republican, and until this year, so was a majority of the City Council.

Oakland's election laws provide for a run-off if no candidate for Mayor or City Council receives a majority in a qualifying election. Last April, there were three strong challengers to Reading: John Sutter, a white attorney elected Councilman-at-large two years earlier, Otho Green, a black businessman, and Bobby Seale, who was running not, he said, as a Panther but as a "people's candidate".

While his opponents were announcing their candidacies, Mayor Reading held back. He was having business troubles and, after nearly seven years in office, wanted to return to private life. The people who had been instrumental in his previous election campaign were grooming Councilman Frank Ogawa for the run for Mayor. But, as Reading tells it, by December it was apparent that Ogawa was not generating the necessary support. "Substantial interests within the city then came to me and asked me to run," Reading says. "Since there was no one else to take my place, if there was going to be a moderate running, I was the only guy." Reading entered the race.

Failure to unite

Various Democratic leaders, mindful of the registration figures and of the success of Democrats in Berkeley and San Francisco in electing Democratic mayors and council members, were busy holding private meetings to try to select candidates. At the urging of a prominent attorney, John George, black leaders and potential candidates met to see if they could come up with one strong black contender. However, Seale was unwilling to negotiate. Another try at putting together a coalition similar to the one that had nominated a slate of candidates two years before also failed.

At this point, the Central Labor Council tried to bring its weight to bear, but found its membership split between Sutter, Green, and Reading. Nor were the Democratic legislators from the Oakland area able to

The author, a consulting social scientist and former legislative consultant, wrote on Berkeley politics in the May issue.

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OAKLAND'S MINORITY POPULATION

Year	Total Population	Black	%	Spanish-surnamed	%	Other*	%
1950	385,575	47,562	12	16,466	4	8,216	2
1960	367,548	83,618	23	23,729	6	13,406	4
1970	361,561	124,710	35	35,375	10	23,339	6

*Includes Filipinos, Indians, Chinese, Japanese

agree on a single candidate; instead, they resigned themselves to making no collective endorsement and pinned their hopes on Sutter or Green making it into the run-off.

Position of strength

John Reading was no pushover. No scandals or major riots had racked his administration. He had the backing of the city's business establishment and the endorsement of the *Oakland Tribune*. His campaign funds were ample. (During the qualifying campaign, he reported spending $88,000.) His theme was unity: "All Oakland Needs Mayor Reading," read his billboards.

But unity wasn't the only theme. The Reading campaign also tapped fear of a "radical takeover" of the sort that seemed imminent in neighboring Berkeley (where an election was being held the same day as Oakland's). Bobby Seale's well-publicized candidacy did nothing to dispel this fear, real or imaginary. Nor did the Mayor's constant reference to Seale as his main opponent, with reminders that Seale was running a "well-organized campaign".

For his part, Seale ran a cool campaign in the Ron Dellums mold. He predicted that he would get a majority in April, making a run-off unnecessary, basing his prediction on a drive to make "black people, chicano people and white youth the majority of the registered voters in the City of Oakland [and then] pulling out 90 percent of that vote on April 17th." Seale's pitch was to the grassroots. "People have a right to a job, with or without a skill," his posters declared. Yet, for a "people's candidate" he raised a lot of money, much of it from outside Oakland. Of the $53,000 he declared in the qualifying election, $21,000 came from sources in Palo Alto and on the San Francisco Peninsula, another $10,000 from Stronghold Consolidated Products, $7,500 from a Bert Schneider of no listed address, and nearly $3,000 from Houston, Texas. Of 208 listed contributors, only 50 gave Oakland addresses.

The vote on April 17th showed Reading with strength throughout the city. His 58,453 votes were just 58 short of the total needed to avoid a run-off. Seale got 21,329 votes, which earned him a place in the run-off. Green finished third with 17,470, followed by Sutter with 15,361. In each of Oakland's four state Assembly districts, Reading either led the field or finished a strong second. In largely white areas, he obtained about 55 percent of the vote, with Sutter pulling about 16 percent. In heavily black areas, he still received one-third of the vote — about as much as Seale. Green received only 25 percent.

Aside from Reading, who never mentioned his party affiliation, the candidates sought to capitalize on the lop-sided Democratic registration by painting themselves as the party's true representative. Sutter became "the Democrat", Green referred to himself as "*the* Democrat", and even Seale and Black Panther Elaine Brown, who was running for City Council, called themselves "two Democrats". Nonetheless, Reading clearly gained substantial support from Democrats — as many as 14,000, according to Gayle Montgomery, the *Tribune's* political editor. Many of these came from white working-class areas. "These Democratic voters," Sutter observed later, "were probably the group most strongly affected by the Seale scare."

Green and Sutter together received nearly 33,000 votes. Either of them running against Reading and Seale would have been unable to claim the middle ground and probably make the run-off; together, they merely split the vote.

The inability of Democratic leaders to unite behind one candidate was the greatest single factor underlying Seale's showing. Historically, when a semblance of unity prevails among Democrats, their candidate has a good chance of winning. In 1971, for example, John Sutter won a council seat as a coalition candidate. This time, Joe Coto, who received substantial support from hill liberals, organized labor, Spanish-speaking groups and some black leaders, managed to gain a run-off and, with endorsement from his defeated primary opponent and solid Democratic backing in the general election, easily won a council seat.

The general election was almost an anti-climax. The Mayor avoided attacking his opponent, stressed his experience, and was credited by the *Tribune* with bringing redevelopment money to the city. Seale went back to precinct work, which he had used effectively in the primary, vowing to bring out all of those who hadn't voted in April.

Nearly 11,000 more people voted in the run-off, and a higher proportion of eligible voters (nearly 71 percent) cast ballots than ever before. Unfortunately for Seale, the higher turnout was spread throughout the city and not just in areas heavily populated by minority-group voters.

Though Seale nearly doubled his vote as Reading increased his by 40 percent, the result was still a runaway victory for Reading. An analysis of selected precincts shows that the great majority of the white vote (in the hills, around Lake Merritt, and in the area between the flatlands and the east Oakland hills) went heavily for Reading. The black vote (in north, west and east Oakland) went for Seale — not quite as heavily, but still by substantial margins. As it happened, Seale's proportion of the vote mirrors the proportion of blacks in the population of Oakland.

"When Seale became the opponent," concluded Reading's strategist Leo Sorenson, "there was no way we could lose."

Cost of disunity

The result is that Mayor Reading and his backers are still in control of Oakland; Bobby Seale and the Panthers appear willing to continue playing the role of spoilers. After the election, Seale announced formation of a New Democratic Organizing Committee to maintain the nucleus of his political organization. Whether this program will fare better than the Panthers' short-lived social programs — breakfast for needy children, a medical-care clinic, an escort service for the elderly, and neighborhood offices — remains to be seen.

However, the political cost of disunity were not lost on local Democrats. Some are already exploring means for selecting and supporting future candidates, and their success will play a large role in determining Oakland's political future.

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California's resistance to creating an ombudsman

OMBUDSMAN (ɒ'mbudzmən), a public official appointed to investigate governmental abuses and to intervene for the ordinary citizen in his dealings with the complex machinery of government. The term is a Swedish word for "attorney" or "representative", signifying the official's role as a public protector. The ombudsman is empowered to investigate any specific complaint by a citizen against an employee or a branch of the government and to initiate measures for alleviating the grievance. He may, in extreme cases, institute proceedings in the courts.

— *Collier's Encyclopedia*

By ALBERT SCHIFF

"We need to find some bridge between the citizen and his government," wrote former Assembly Speaker Jess Unruh, "some way to clear away the complexities and frustrations." Unruh was writing in 1965 following defeat of his attempt to create a state ombudsman in California. Other legislators have since tried to create such an office in the state government [see box]. But the attempt, including this year, has always met defeat — though the ombudsman idea persists, popping up here and there in local government, in other states, and in other countries.

Royal beginning

The first ombudsman was established in Sweden in 1809 under an authoritarian monarchy. A literal translation of the Swedish word, which now enjoys international currency, is "a person who speaks for another person." Its acceptance in the English language, however, is so recent that *ombudsman* is an entry in only the most recent editions of standard dictionaries. So far, the concept has been adopted for use by Great Britain, New Zealand, Denmark, Australia, Finland, Norway, and five of Canada's 10 provinces.

In the United States, Hawaii in 1969 became the first state to create an office of ombudsman — after California's Legislature had failed for the third time to do the same. Since then, ombudsmen have been established in one form or another on the state level in Oregon, Iowa, Nebraska, North and South Carolina, Illinois, Kansas, New Mexico, Montana, Ohio, and Pennsylvania — but not in California. On the municipal level, ombudsmen now exist in Dayton, Ohio; Seattle, Washington; Erie, Pennsylvania; and Wichita, Kansas. After a long period of community turmoil one was finally created in San Jose, California.

The ombudsman's role is to investigate citizens' complaints and make governmental agencies responsive to the public they serve. Success is based on how well the ombudsman can "read the riot act" to errant officials on complaints arising because the government bureaucracy has been discriminatory, illegal, arbitrary, unreasonable or erroneous in its dealings with the public. To aid his investigations, the ombudsman has the power to subpoena uncooperative parties and make his findings public. "The threat of these two powers is sufficient to resolve most disputes," says Herman Doi, Hawaii's ombudsman, "and so I have never had to use them." The ombudsman also recommends legislation or administrative changes. In San Jose, this has been the major function of Sam Sanchez, the city's ombudsman.

Political independence is an important characteristic of an effective ombudsman operation. Ombudsmen who do not serve at the pleasure of the governing body aren't subjected to the usual pressures inherent in policial appointments. (Selection for a specified term usually follows nomination by a commission and confirmation by the legislative body.)

A dilemma exists in staffing an ombudsman office: How to employ enough staff to deal with the flow of complaints and inquiries that typically runs heavy without becoming yet another governmental bureaucracy? The usual result is a very small staff. In San Jose, the population of 500,000 is served by five people. In Hawaii, nine persons cover the islands' 750,000 inhabitants. Yet, the caseload of these offices is such that more staff could easily be justified. In his first eight months of operation in Pennsylvania, for example, the City of Erie's ombudsman reportedly received more than 5,000 complaints — not to mention 5,000 additional requests for information.

Legislative hesitancy

There is hesitancy among some legislators to create an ombudsman. They apparently fear that such an office would detract from the services they feel they now render for troubled constituents. Experience with ombudsman operations suggests, however, that the number of complaints exceeds the capacity of the typical legislator's staff. Indeed, legislators in areas with ombudsmen have found them to complement their activities since the politicians referred cases to the ombudsman for detailed review without losing contact

The author is the sponsor of the initiative effort to create an ombudsman in Contra Costa County.

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Chronology of Ombudsman legislation

1965	AB 2956 (Unruh) State Ombudsman. Failed Passage.
1967	AB 1020 (Unruh) State Ombudsman. Failed Passage.
1968	SB 33 (Dymally) State Ombudsman. Failed Passage.
1971	AB 1823 (Bill Greene) Penal Ombudsman. Failed Passage.
1971	AB 5 (Murphy) Penal Ombudsman. Vetoed.
1972	SB 1456 (Mills) State Ombudsman. Failed Passage.
1972	AB 5 (Murphy) Penal Ombudsman. Vetoed.
1973	SB 1105 (Nejedly) Penal Ombudsman. Failed Passage.
1973	SB 130 (Mills) State Ombudsman. Failed Passage.
1973	SCR 61 (Beilenson) Constituent Service Office. In Committee.

with constituents who benefit from the special attention.

One of the 1973 attempts at creating a California ombudsman was made by Senator Anthony Beilenson of Beverly Hills, who tried to overcome this hesitancy. Beilenson felt that citizens' complaints are now handled in a haphazard fashion. "If grievances could be channeled into a central office and dealt with in an objective and systematic fashion, we could provide much more effective service to the public," Beilenson asserted. His Senate Concurrent Resolution 61, which languishes in the Senate Rules Committee, would create an Office of Constituent Service to review complaints forwarded to it by the legislators and recommend remedial action or legislation. The resolution would not require gubernatorial approval. Senate President pro Tempore James Mills tried last year and this to establish a full-blown state office of ombudsman, but both his attempts ended in the Senate Finance Committee.

Penal ombudsman

The legislative obstacle, formidable as it has been, is not the only hurdle to be overcome in California, however. Governor Reagan has vetoed the ombudsman bills that did reach his desk.

The subject of Reagan's vetoes has been a proposal by Assemblyman Frank Murphy of Santa Cruz, Assembly Republican Caucus chairman, to create a state penal ombudsman to hear prisoner complaints independently of corrections personnel. In vetoing the second Murphy proposal to reach him in as many years, Reagan explained that "an ombudsman for corrections would very likely have the effect of duplicating existing functions and would interpose a barrier to the efficient rehabilitation programs now being conducted." That reasoning excludes the *raison d'être* of an ombudsman — independence from the agencies involved.

Initial legislation to establish a penal ombudsman for California was introduced unsuccessfully by Assemblyman Bill Greene of Los Angeles. His bill also provided for regulation of all ombudsmen who might be employed by public entities, with the Attorney General responsible for administering the act. It specified that such offices created by local agencies would give more than lip service to the public complaints. To be able to do so, each office was required to have the following characteristics:

- Independence from the employing agency.
- Unrestricted jurisdiction to investigate the activities of the employing agency.
- Power to hear complaints, make investigations, criticize, give information, report and publicize findings.
- Selection and removal procedures to assure independence.
- Provision of sufficient budget, staff and facilities.

Monitoring ombudsmen

An Office of Ombudsman Research, established at the University of California at Santa Barbara, monitors developments in the ombudsman concept in the United States and Canada. Professors Stanley Anderson, John Moore and Alan Wyner have compiled extensive studies of the trials and tribulations in cases where ombudsman offices made their way into existence — and also of those where they did not. So far, Moore said, the findings suggest that "many ombudsmen offices exist where they seem to be needed least." In other words, these offices are usually created in areas that already have responsive governments. The research office maintains a close relationship with the Institute of Governmental Studies at UC Berkeley, which has published a number of ombudsman reports.

What, then, of California? Regarding legislative responsiveness to the electorate, it is significant that the number of initiative measures increased suddenly to nine in November 1972 after a period of dormancy. Not since 1948, when 10 measures qualified, had as many initiatives qualified for the ballot [see *CJ*, August 1972, p. 229]. Will the ombudsman idea generate enough support to find a place on the ballot in California due to governmental failure to adopt the concept?

Such a campaign is in progress in Contra Costa County, where initiative petitions are now circulating to create a county office of ombudsman. Since the Board of Supervisors is not receptive to the proposal and might stymie appointment of an ombudsman, selection would be independent of the board. A commission composed of representatives from 11 citizens' groups would have final authority to select the ombudsman.

If the state government can't or won't build the bridge between it and the citizens that Unruh spoke of, it may be that the citizens will.

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California government has settled on the property-tax exemption as its prime tool in "reforming" the state's tax structure. State Controller Houston Flournoy, with obvious pleasure, issued a report in October showing that increased exemptions added over the past year have stabilized property-tax rates throughout California.

Is the popularity of the tax exemption justified? Where will the exemption spiral end? Who pays for each exemption granted? Who benefits?

Does anyone really benefit from property-tax exemptions?

BY MARION S. BEAUMONT

The continuing popularity of granting tax relief in California by means of property-tax exemptions derives more from the political appeal of exemptions than from any principle of public finance. Tax exemptions, after all, are a relatively simple method of mollifying unhappy taxpayers — much simpler and much more easily understood than, say, reforming assessment practices.

The problem is that, except for recent provisions requiring the state to repay local governments for certain tax exemptions it has granted, the historical erosion of California's property-tax base has meant higher property-tax rates for those property owners who do not qualify for the exemptions. In turn, higher tax rates motivate taxpayers to seek further exemptions. While justification for granting exemptions can be vividly expressed — relieving an onerous tax obligation for certain property owners, promoting socially beneficial activities of private, non-profiit institutions, preserving the environment by protecting open spaces — the value of these exemption benefits is hard to pin down.

Increasingly, the state is repaying local governments for property-tax revenues it has taken away, and this "property-tax relief", as it is labeled, has become the fastest-growing expenditure in California's budget. It increased by about 24 percent in the 1972-73 fiscal year and is expected to rise by more than 118 percent in the present fiscal year.

How exemptions grow

Since 1850, when the first property-tax law was enacted in California, exemptions from property taxes have been a constant feature of the state's fiscal system. Typically, exemptions grow by analogy; for example:

- Don't low-income young households with children need property-tax relief as much as senior-citizen households?
- Why not provide "circuit-breaker" programs (state-financed relief to protect low-income households from property-tax overload) for low-income farmers?
- Shouldn't property-tax relief be extended to all low-income households, including renters?
- When the exemption is stated as a flat amount of assessed value, isn't it only fair (and good politics) to increase the exempt assessed value in an inflationary period — increasing a home-owner's exemption, say, from the present $1,750 to $2,750?
- Shouldn't the business-inventory exemption be increased, too?
- If state reimbursement removes intrastate distributional inequities, why not have the federal government even out interstate differences?

Why not indeed? Well, one reason is that exemptions must be paid for at some time by some, if not all, taxpayers. Unfortunately, calculating exactly on whom this shifted tax burden falls is difficult and involves topics of great controversy, including the following:

Who pays the property tax? Before deciding who needs relief, it is necessary to know who ultimately pays the tax. The answer is unclear — it depends. One view in support of home-owners' exemptions, for example, is that the property tax on owner-occupied residential property is regressive, since it takes a larger fraction of the income of low-income households than of high-income households. A portion of the tax on other property is shifted to renters, in the case of residential property, or to consumers, in the case of commercial property, while the tax on land is assumed to be borne by the owner.

Another view of who pays the property tax is that when the tax is properly administered it is really a tax on capital. Since ownership of capital increases as income increases, the property tax is progressive, not regressive, taking a larger fraction of income from high- than from low-income property owners.

Who receives property-tax relief, and how much? Since who actually pays the property tax is uncertain, the problem of determining who is entitled to relief from it is, at best, elusive. If distribution of the tax among various income classes according to ability to

Property-tax relief*

	Actual 1971-72	Estimated 1972-73	Estimated 1973-74
Senior citizen property-tax assistance	$ 8,301,884	$ 60,000,000	$ 62,000,000
Personal property-tax relief**	121,741,522	133,000,000	208,000,000
Open space	—	13,000,000	22,000,000
Homeowner property-tax relief	231,599,716	242,800,000	647,250,000
Renter tax relief	—	—	40,000,000
Total	**$361,643,122**	**$448,800,000**	**$972,250,000**

*State of California **Governor's Budget for 1973-74**, p. L-1.

**Reimbursement to local governments for property tax losses resulting from partial exemption of business inventories and a special assessment of *motion picture films, livestock, wine and brandy.*

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pay could be determined accurately, the problem of taxing equally individuals or households within each income class would still remain.

According to published estimates, the relief provided by *The Property Tax Relief Act of 1972* (SB 90) provides different amounts of tax relief for home-owners and renters of the same income class. Renters either pay very little less in total (non-federal) taxes than before or their taxes actually increase. (Whether this is justified by previous tax inequities is debatable.)

Other problems in designing tax-relief programs involve agreeing upon what concept of income should be used and whether such taxpayer characteristics as age, wealth, marital status and number of dependents should be considered. Furthermore, taxpayer categories are not mutually exclusive: senior citizens can be renters, and home-owners are also consumers.

Who pays for the relief? State-reimbursed property-tax exemptions, preferential assessment, and tax-refund programs are financed from the state's general fund. Thus, whose taxes go into the general fund is important in determining net changes in taxpayers' total burden. The following taxes are included in the general fund:

- **The California income tax.** With its top rate of 11 percent (applicable to taxable incomes of $31,000 or more for married couples), the personal income tax is mildly progressive. This feature is diminished, however, when taxpayers include the state tax in their itemized federal income-tax deductions; each dollar of state tax reduces the federal tax, which has rates ranging from 14 to 70 percent, so that the higher the federal-tax bracket, the greater the benefit of deductibility.
- **Corporate taxes.** Opinions differ as to whether corporation taxes are borne by corporation stockholders, passed on to consumers in higher prices, shifted back to workers in lower wages, or distributed in varying proportions to all three groups.
- **The California sales tax.** With foodstuffs exempt, this tax is at best a roughly proportional tax. Sales taxes are also deductible from the federal income tax.
- **State excise taxes.** These taxes, which include taxes on alcoholic beverages and cigarettes, are regressive.

In short, the relief granted by the 1972 Legislature from the property tax will be paid from general-fund taxes whose incidence is vague and not clearly linked to ability to pay.

Other often disregarded costs of property-tax relief are its administrative and compliance costs. The state Board of Equalization now reviews property-tax exemptions that require 14 different claim forms. Homeowners, business-inventory, senior-citizen, and open-space relief programs impose considerable administrative and compliance costs. Moreover, taxpayers' time also is not a free good, and compliance with tax laws requiring exemption forms and additional income-tax computations impose significant costs in reduced working or leisure time or in paying professional tax-preparers. Finally, do the taxpayers presumed to be most in need of property-tax relief — namely, the lowest-income property-tax payers — participate fully in existing property-tax-relief programs?

Present property-tax exemptions

The accumulation of property-tax exemptions in California defies simple classification, and the total value of exemptions is unknown. Time-series data are available for only four exemptions — veterans, churches, colleges, and welfare — which removed $1.98 billion in assessed value (3.1 percent) of the gross tax base from local property-tax rolls in fiscal 1972-73. These "recorded" exemptions are only part of total exempt valuation, however. Five categories of property are wholly or partly exempt from general property taxation: public property (including nearly 45 percent of California's total land area that is owned by the federal government), intangibles, private institutional property, property of certain individuals, and certain business property. There are also five kinds of property subject to special property taxes: private aircraft, baled cotton, private railroad cars, documented vessels, and certain livestock. Special assessment procedures apply to still other kinds of property.

In general, local governments are not reimbursed by the state for loss in property-tax revenue resulting

California's property-tax base

General local property taxes:

Land.
Improvements.
Tangible personal property.

Special property taxes or assessment procedures:

Baled cotton (0.1% of full cash value).
Documented vessels (1% of full cash value).
Golf courses.
Livestock (in-lieu tax of 5 mills per head-day, except 0.55 mills per head-day for sheep; tax reduced by the same percentage as business inventories. State subventions paid to local governments for loss in property-tax revenue).
Motion picture film (state reimburses local governments for loss in property-tax revenue).
Open-space land (state reimburses local governments).
Pledged goods.
Private aircraft (1.5% of full cash value).
Private railroad cars (taxed for state purposes at preceding year's average general property-tax rate in state).
Property damaged by major calamity.
Storage media for computer programs.
Wine and brandy (local governments reimbursed by state for loss in property-tax revenue).
Works of art held by artist.

Exempt, at least in part:

Public property — property of all levels of government (unless property owned by a city or county in another taxing jurisdiction was subject to taxation when acquired); public-school property; housing authorities; student organizations (personal property).
Intangibles (such as cash, stocks and bonds).

Institutional property — cemeteries; churches; colleges; educational television and FM radio stations; exhibits; libraries; museums; orphanages; veterans' organizations (personal property and buildings); welfare (religious, hospital, charitable); blood and human body-parts held for medical purposes.

Properties of certain individuals — homeowners (state repays revenue loss to local governments; Senior Citizens Tax Assistance Law also provides a partial refund); personal effects and household furnishings; stock in trade of blind vendors; vessels under $400 market value; veterans; works of art available for public exhibit.

Certain business property — agriculture (growing crops, including fruit and nut-bearing trees and grapevines); aircraft in California for repair; business inventories (state repays local governments' loss in property-tax revenue); immature forest trees; property of retirement systems; vessels over 50 tons.

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How veteran and homeowner benefits grew

Throughout California's statehood certain individuals for whom the property-tax was deemed especially onerous received exemptions. The cases of veterans and home-owners are particularly illustrative of how exemptions are granted:

Veterans. A constitutional amendment approved in 1911 exempted property to the amount of $1,000 of every California resident who served in the armed forces during war and was honorably discharged, if the property was valued at less than $5,000. Although its original purpose was to encourage veterans of the Spanish-American War to settle in California, since 1911 the exemption has been defended as a reward for patriotic service. Except for approval in 1964 of an amendment restricting the exemption to veterans entering service from California, the electorate has voted consistently to broaden this exemption. Often criticized for its unequal distribution of benefits —veterans owning no property or property valued at more than $5,000 are ineligible — and of costs to local governments, the veterans' exemption is being superceded by the home-owners' exemption, which is more generous and has no property-ownership limitation. (An individual cannot receive both exemptions.)

Home-owners. The Senior Citizens Property Tax Assistance Law permits home-owners aged 62 and over whose household income is not more than $10,000 to obtain refunds for a portion of property taxes paid on the first $7,500 of assessed valuation. (The refund increases as household income decreases.) SB 90 in 1972 increased the general home-owner's exemption from $750 to $1,750 assessed value in 1973-74 and provided income-tax credits of $25 to $45 for renters (see *CJ*, August 1973, p. 261).

from exemptions of public property, intangibles and private institutional property. This raises the question of whether the benefits of these exemptions exceed their costs to local government and owners of taxable property. In the case where the state does repay local governments for their loss in property-tax revenue, is this the most efficient means of distributing the cost of government among Californians? Since reimbursement is now a requirement in any future classification or exemption of property by the Legislature, under SB 90, the answer to that question assumes increasing urgency.

A major difficulty in appraising exemption benefits is their subjectivity. For example, the benefits of a new government facility or a church building may be welcome in an area with high unemployment, since the construction of either will create jobs. However, taxpayers may value differently the benefits of permanently exempting such property.

In any case, the fraction of total benefits due solely to exemptions is hard to identify. A fundamental difficulty, especially with institutional benefits, is determining whether a need or demand exists for those benefits. The current economic value of exemptions embedded in California's revenue laws is unknown, as is the relationship between the recipients of those benefits and property-tax payers.

Exemption costs

The loss in tax base to local governments and higher rates to non-exempt property-owners are usual measures of the cost of unreimbursed exemptions. Inequities arise when the cost of unreimbursed exemptions that are state-imposed—colleges, churches and welfare exemptions —- is borne in the taxing jurisdiction containing the exempt property while exemption benefits flow outside the jurisdiction.

In 1970, Pacific Grove in Monterey County sought to recover its cost of providing public services to certain tax-exempt property by enacting an ordinance imposing a tax of five percent on the annual payments made by occupants of retirement homes that enjoyed the state welfare exemption. Two years later, in *John Tennant Memorial Homes* v. *City of Pacific Grove*, however, the ordinance was struck down, though the court noted that California courts have established that "economic and governmental problems created by the rapidly growing number of aged persons transcends mere local concern."

One way to assist local governments adversely affected by the revenue loss from tax-exempt property would be to replace unreimbursed state exemptions which are actually indirect subsidies with direct subsidies, where help is currently needed.

Challenge of Serrano

The doubtful prognosis for proposals to stop using exemptions as indirect subsidies was demonstrated this year in the wake of the U.S. Supreme Court's landmark decision in *San Antonio Independent School District* v. *Rodriguez*. In deciding the Texas case, the court turned aside the argument originating in the celebrated California case, *Serrano* v. *Priest*, in which the state Supreme Court held that school-district wealth (defined as the assessed value of taxable property within the district) is discriminatory as a basis for financing public education and violates the equal protection clause of the Fourteenth Amendment to the U.S. Constitution. While refusing to approve existing school financing, the court observed that "fundamental reforms with respect to state taxation and education are matters reserved for the legislative processes of the various states. . . ."

The aftermath of the *San Antonio* decision revealed that the legislators' principal response to the school-financing challenge initiated in *Serrano* and to the taxpayers' clamor for relief from the supposedly heavy burden of local property taxes was enlargement of property-tax exemptions. In 1972, the California Legislature specified a larger state role in school financing, and provided tax relief in the form of increases in both the home-owners' and business-inventory property tax.

Nonetheless, the challenge of *Serrano* remains. California can still shed politically expedient tax relief and lead the nation in developing an equitable and economically sound school-financing and tax-reform program.

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It was said . . .

I am absolutely, totally honest. There is nothing in my life that should not be published. I'm so clean and square that sometimes I wonder if I've had all the fun I should have had.

. . . by Lieutenant Governor Ed Reinecke in an interview with the Los Angeles Times.

Maybe William Matson Roth is a little stuffy, but I'm not going to fool anybody. I'm just not "good old folksy Bill Roth".

. . . by Roth, who describes himself as "the candidate nobody knows" in his bid for the Democratic nomination for Governor.

Write this: I'll take no crap from any man, because if I've got to take it, I don't want the Governor's job.

. . . by Senator George Moscone, to reporter Al Martinez of the Los Angeles Times.

This is no ego trip for me. It's a darn big sacrifice for a guy who is near the top of his profession.

. . . by attorney Herb Hafif, remarking on his first bid for political office — the Democratic nomination for Governor.

Do governors get Purple Hearts?

. . . by Governor Reagan as he carved a finger along with three baked birds in an annual Capitol rite sanctioned by the California Turkey Federation.

I am sure you will agree with me that we should honor this truly distinguished lady in a meaningful, tangible fashion.

. . . by Robert H. Volk, head of Unionamerica, Inc., and its affiliate, Union Bank, in urging financial institutions to support a $125-a-plate fund-raising dinner for state Treasurer Ivy Baker Priest.

Only when the professionally produced programs came along were we able to fulfill the promise of what public TV should be. I would have to say that instructional television and radio has been a complete failure in this country.

. . . by John Summerfield, 46, resigning as general manager of KPBS-TV and KPBS-FM in San Diego after 24 years in public broadcasting.

If the administration's actions are so bad that employees can no longer stand it, they are going to strike and all the laws in the world aren't going to stop them.

. . . by Walter Taylor, general manager of the California State Employees Association.

The dependence of California's schools on fuel is awesome. Each day, 13,293 school buses transport more than a million students and these buses log more than 171,200,000 miles annually.

. . . by Superintendent of Public Instruction Wilson Riles.

Constitution *(Continued from page 406)*

stitutional tax exemption to certain businesses, for example, is far more valuable than one granted by statute. A statute can be changed virtually overnight by the Legislature; a constitutional amendment involves a cumbersome process ending with a vote of the people.

Prospects for the balance of the commission's proposals are not bright. For one thing, there no longer is a commission staff available to lobby for the proposals in the Legislature. "I'm convinced," says Judge Sumner, "that the proposals of the commission could be adopted and could be accepted. What we need is a strong advocate who would present them and take the time to go into them."

Time is something else that is working against the commission's proposals. The education proposal, some legislators say, has become dated in the five years since it was first offered. Obsolescence is an argument likely to be heard with increasing frequency against the remaining revisions.

The commission's work, however, is far from dead. Judge Sumner believes that much has been accomplished, but he conceded a year ago that some proposals stand little chance of surviving the political realities of the Legislature. "There are some commission recommendations in sensitive areas such as taxes and exemptions that may be too controversial to be adopted, but, regardless, an important chapter has been written in California constitutional law. This is true not only because half of our Constitution has been revised, but because of the public attention given to controversial areas in our constitutional law."

And four major revisions remain alive — a declaration of rights, revenue and taxation, recall of public officers, and motor-vehicle taxation. All repose in legislative committees. One or more of them could be approved in time for the 1974 ballot.

There is another hope as well for those who would further renovate the California Constitution. At a recent hearing in San Diego, the Assembly Constitutional Amendments Committee discussed the need for a revision commission that might meet every five or ten years to review the Constitution. The committee, noted Chairman Alex Garcia, now "is the only overseer of our state Constitution." When Assemblyman Garcia called the San Diego hearing to order, he expressed hope that it would produce a clearer idea of how the committee might protect the Constitution.

The resurrection of the Constitutional Revision Commision was the idea that emerged.

Less is more

A new commission would find plenty of work remaining. The California Constitution remains no more than half revised after the first commission's pruning. It still provides, for example, constitutional status for the authority of the California State Bar, county school boards and local public utilities, for the guarantee of free textbooks for school children, for the exemption of church parking lots from taxation, and for prohibiting railroads from giving free passes to public officials.

With such matter removed to statute, if retained at all, the state's still-bulky basic legal document would assume much more of the austere beauty — and greater flexibility — of the model on which it was based.

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California Journal/*NEWSBRIEFS*

Four candidates file in another Senate special election

Two Republicans and two Democrats will be on the special-election ballot in most of San Bernardino County December 18th, seeking the state Senate seat vacated by Republican William E. Coombs. He resigned October 19th to accept a Treasury Department post in Washington. If no candidate receives a majority, a runoff will be held between the top Democrat and top Republican on January 15th. The Republican contenders are three-term Assemblyman Jerry Lewis of Highland and Robert J. Allenthorp, a Big Bear businessman. The Democrats are Ruben Ayala, a county supervisor from Chino, and Ralph G. Carter, a Rialto councilman.

The district, which covers 80 percent of San Bernardino County, has a 56-39 per cent voter registration break in favor of the Democrats. But Republicans usually run far ahead of their registration percentage in special elections. The party must retain the seat to prevent Democrats from gaining a 21-19 majority in the upper house.

1973 Special Election Box Score

District	Seat of	Primary Date	Results
22nd S.D.	Carrell (D) Died	Jan. 30th	Alan Robbins (D) won in runoff
38th S.D.	Burgener (R) Elected to Congress	March 6th	Assem. John Stull (R) won in primary
38th A.D.	Porter (D) Died	May 1st	Robert McLennan (R) won in runoff
67th A.D.	Townsend (D) Died	May 29th	Paul Bannai (R) won in runoff
80th A.D.	Stull (R) Elected to Senate	May 29th	William Craven (R) won in runoff
12th A.D.	Monagan (R) Washington appointment	June 12th	Doug Carter (R) won in runoff
14th A.D.	Crown (D) Died	Aug. 7th	William Lockyer (D) won in runoff
Statewide	Tax Initiative	Nov. 6th	Reagan tax initiative defeated
20th S.D.	Coombs (R) Washington appointment	Dec. 18th	

Senate membership: 20 Democratic, 19 Republican
Assembly membership: 49 Democratic, 31 Republican

Teamsters decide to honor contracts won at Chavez' expense

"An agreement in principle" that had generated hope for farm-labor peace in California fell apart last month. The Teamsters Union decided to honor the contracts it signed with growers who formerly had done business with Cesar Chavez' United Farm Workers. AFL-CIO President George Meany accused the Teamsters of breaking a "full and complete agreement which was not subject to further negotiations."

Teamster President Frank E. Fitzsimmons triggered the outburst by announcing that his union intended to "live up to our legal and moral commitments." Growled Meany: "It appears the Teamsters have decided their interests lie in maintaining their alliance with the growers rather than maintaining their integrity as trade unionists."

The upshot was twofold: It renewed interest in legislative proposals to bring farm workers under some kind of labor regulation similar to the National Labor Relations Act, and it returned a UFW boycott of table grapes and head lettuce.

UC and Stanford get high marks for their professional schools

Stanford and the University of California — particularly its Berkeley campus — dominated West Coast universities in a rating of the nation's top professional schools published by *Change,* a magazine devoted to higher education. Surveyed were 1,180 deans of professional schools, who were asked to name the five most outstanding schools in their own fields. The California choices:

UC Berkeley. First in architecture, forestry, optometry; third in engineering; fourth in library science.
UCLA. Second in public health; fifth in nursing.
UC San Francisco. First in pharmacy; second in nursing.
UC Davis. First in veterinary medicine.
Stanford. First in education; second in business and engineering; third in medicine.
Cal Tech. Fifth in engineering.
Graduate Theological Union, Berkeley. Fifth in theology.

No West Coast schools were rated in the top five in dentistry, journalism, law, and social work.

Legislative panel ends study of master plan for higher education

After two years' study, the Joint Committee on the Master Plan for Higher Education submitted its findings last month. Among them: abolish the master plan. In completing its work, the committee pruned the 56 recommendations contained in its draft report issued last February [*CJ*, March 1973, p. 99] to 49. One of these earlier recommendations has already been signed into law. It created the California Postsecondary Education Commission, which next April will replace the Coordinating Council for Higher Education. This commission will take over planning on a continuous basis and will have the authority to coordinate budget requests from the three segments of public higher education in California: UC, the California State University and Colleges, and the California Community Colleges.

Remaining in the final set of recommendations is one to equalize at eight years the terms of UC Regents (now 16 years), CSUC Trustees (eight years) and the Community Colleges Board of Governors (four years). Opposition has come chiefly from the University of California, which defends the 16-year terms on grounds that it insulates the Regents from becoming overly political. A proposal to create a fourth segment — a campus without walls — has run into opposition from both UC and CSUC, which have major extension-degree programs of their own.

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Selected state government reports

EDUCATION

The Future of Higher Education: some speculations and suggestions; by Alexander M. Mood, published by McGraw-Hill. October 1973. The product of a study at UC-Irvine, the book offers alternative methods of meeting growing enrollments and shrinking budgets. ($6.95)

Report of the Joint Committee on the Master Plan for Higher Education. September 1973. A comprehensive report containing 49 recommendations on organization, operation, coordination, financing, and goals of the state's higher education system. 124 p. Available free from the committee, Assembly P.O. Box 83, State Capitol, Sacramento 95814.

Review of Reported Expenditures of the Associated Students of California State Universities; prepared by the Joint Legislative Audit Committee, Room 4126, State Capitol. June 1973. A report on the uses of mandatory student body fees at San Diego, Chico, and Long Beach campuses of the California State Universities. 78 p. (Free)

ENVIRONMENT

State Strategy for Water Quality Control; prepared by the California Water Resources Control Board. July 1973. An assessment of statewide water quality problems, priorities and programs. 31 p. and appendices. Available free from the board, 1416 9th St., Sacramento,

Environmental Impact of Detergent Builders on the Waters of the State of California; prepared for the state Water Resources Control Board. July 1972. A discussion of the nature, composition, and performance of detergent products; illustrated by case histories of nutrient enrichment and of its impact on California waters. Publication No. 46, Documents Section, Department of General Services, P.O. Box 20191, Sacramento 95820. ($3)

Research Needs for Water Resources Control in California; prepared by the state Water Resources Control Board. April 1973. Defines problems and identifies research needs to cope with water quality-control problems over the next decade. Publication No. 48, Documents Section, Department of General Services. ($3)

California Environmental Law: A Guide; by Gerald R. Mylroie, revised by Karen Towne, Thaddeus C. Trzyna, and Edward J. Zinkiewicz, published by the Center for California Public Affairs, an affiliate of Claremont Colleges. 183 p. ($6.50)

State Open-Space and Resource-Conservation Program for California; prepared by Eckbo, Dean, Austin & Williams for the Joint Legislative Committee on Open-Space Lands. July 1972. Recommendations for preserving California's open-space lands. 60 p., ill. Available from the committee, 509 Library and Courts Building, Sacramento 95814.

The California State Water Project in 1973; prepared by the Department of Water Resources. June 1973. Summarizes 1972's construction and operations, updates the long-range financial projections, and provides data supporting 1974 water charges. 170 p. Available from the department, P.O. Box 388, Sacramento 95802. ($5)

MISCELLANEOUS

Report to the Assembly Committee on Finance and Insurance on the Budget, Staffing and Selected Activities of the Department of Insurance; prepared by the Legislative Analyst, 925 L St., Sacramento 95814. May 1973. Findings and recommendations for improved staffing and operations of the department. 13 p. and appendix.

A Study and Recommendation for a Year-Round Vehicle Registration System in California; prepared by the state Department of Motor Vehicles. January 1973. Requested by the California State Assembly, Study includes recommendations for implementation. 97 p., ill.

Where Do They Stand?; special issue of ADA News, listing responses to questionnaires sent to six leading Democratic candidates for Governor. September-October 1973. Americans for Democratic Action, Southern California Chapter, 11783 Laurelcrest Dr., Studio City, 91603. (25¢)

Rehabilitated Welfare Clients: An 18-Month Follow-Up Study; by Rosemary P. Peters, Senior Social Research Analyst; published by the state Health and Welfare Agency. March 1973. 26 p. Available free as FSS 73-3-1 from the Department of Rehabilitation, 714 P St., Sacramento 95814.

NOTE: Unless otherwise indicated, reports may be obtained by writing the publisher, state agency, or legislative committee at the address given. Prices are listed when available.

CALIFORNIA CALENDAR

Meetings of the following state boards and commissions are listed each month, only if a meeting is scheduled: Board of Corrections; Trustees of the California State University and Colleges; California Community Colleges Board of Governors; California Council on Criminal Justice; Coordinating Council for Higher Education; Board of Education; Highway Commission; Little Hoover Commission; Commission of Housing and Community Development; Park and Recreation Commission; University of California Board of Regents; and Social Welfare Board.

Dec. 7 — **Fish and Game Commission.** Auditorium, Resources Building, 1416 9th St., Sacramento. 9 a.m.
Assembly Committee on Revnue and Taxation. City Hall Council Chambers, Seal Beach. 9:30 a.m. Subject: Publicly held open-space.

Dec. 11-12 — **Senate Committee on Transportation.** Room 1138, State Building, 107 South Broadway, Los Angeles. 9:30 a.m. Subject: Impact of the fuel shortage on California's transportation industry.

Dec. 11-14 — **Board of Equalization.** Room 102, 1020 N St., Sacramento. 2 p.m.

Dec. 12 — **Assembly Committee on Employment and Public Employees.** Room 1200, 350 McAllister St., San Francisco. 9:30 a.m. Subject: Analysis of how employee salaries and benefits are set.

Dec. 13-14 — **Board of Education.** Auditorium, Resources Building, 1416 9th St., Sacramento. 9 a.m.

Dec. 17 — **Senate Select Committee on Children and Youth.** Children's Hospital Auditorium, Los Angeles. 9:30 a.m. Subject: Child abuse.

Dec. 18 — **Senate Select Committee on Children and Youth.** Auditorium 1194, State Building, San Francisco. 9:30 a.m. Subject: The runaway child.

Dec. 19 — ***Senate Subcommittee on Medical Education and Health Needs.*** Old State Building, Los Angeles. 9:30 a.m. Subject: Hypertension.

Jan. 10-12 — **Law Revision Commission.** State Bar Building, 601 McAllister St., San Francisco. 7 p.m.

Jan. 11 — **Parks and Recreation Commission.** (Site undetermined).

The following boards and commissions follow a regular monthly schedule: Board of Agriculture, first Thursday of each month; Allocation Board, second Tuesday; San Francisco Bay Conservation and Development Commission, first and third Thursdays; Consumer Advisory Council and Merit Award Board, second Wednesday; Public Works Board, last Monday; Reclamation Board, second and fourth Fridays; Soil Conservation Commission, fourth Tuesday; State Lands Commission, last Thursday; Transportation Board, first Thursday; California Water Commission, first Friday; and Water Resources Control Board, first and third Thursdays.

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Roundup of significant court actions

The following are the significant California Supreme Court actions in the last month:

Child rights

In a decision significant for the contribution it makes to the expanding legal rights of children, the court declared that a minor may recover damages for the death of a non-relative who had assumed a parental role with the child.

In *Steed* v. *Imperial Airlines*, the court decided in a 4-3 opinion authored by Justice Louis Burke that a lower court erred when it limited recovery in wrongful-death actions to natural children, precluding claims by stepchildren who have not been formally adopted by the stepparent.

California law limits wrongful-death actions to the "heirs and representatives" of the deceased, and only natural children and formally adopted children were believed to have qualified. However, Justice Burke emphasized that the emotional and economic damage done to a stepchild by the death of someone the child regarded as a parent can be as great as that done to a natural or adopted child. The court concluded that to deny such a child the right to sue violates the equal protection clause of the United States Constitution.

Burke was joined by Justices Mathew Tobriner and Stanley Mosk and by Court of Appeal Justice Otto M. Kaus, who heard the case on assignment. Justice William Clark did not participate because he was not a member of the court when the case was argued.

Chief Justice Donald Wright dissented, contending that no constitutional issues were presented in the case and that the matter should be left to the Legislature. He was joined by Justices Sullivan and McComb.

The suit was initiated by Martha Steed on behalf of her daughter, Elizabeth, for the death of Ronald Steed. Although Steed was not Elizabeth's natural father and had not taken steps to adopt her, he treated her as his natural daughter and told Elizabeth and others that she was.

On pleading guilty

The court, in *Mills* v. *Municipal Court* and *People* v. *Superior Court*, has required that the same constitutional guidelines be followed for misdemeanor defendants who plead guilty as it earlier ruled must be followed for felony guilty pleas.

In a unanimous decision written by Justice Tobriner, the court said that a guilty plea is valid in a misdemeanor case only if the defendant has knowingly waived his constitutional rights to confrontation and jury trial and his privilege against self-incrimination. The guilty plea and waiver of rights may also be made through an attorney without a court appearance by the defendant.

The court's opportunity to apply its earlier felony guilty-plea rule to misdemeanor cases came when Glenn Mills attempted to set aside a misdemeanor drunk-driving conviction on the ground that he was not advised of his constitutional rights before entering a guilty plea. In extending the constitutional guidelines to misdemeanor cases, however, the court refused to make the ruling retroactive and declined to reverse Mills' conviction.

In the companion case, Stanley Wicks sought to plead guilty to a misdemeanor charge in municipal court without personally appearing. He offered instead a written declaration of guilt and waiver of rights. The lower court refused to accept the plea, but the Supreme Court declared the written declaration to be proper.

The court exempted from its misdemeanor ruling minor traffic offenses in which the defendant forfeits bail.

Support for commissioners

The court upheld use of commissioners in Los Angeles County to decide uncontested civil cases. Commissioners have been used by the superior courts in Los Angeles to relieve a backlog of cases.

The case, *Rooney* v. *Vermont Investment Corp.*, arose out of a dispute over a promissory note. The parties agreed to a settlement that required court approval, and the matter was assigned by a superior court to a commissioner who sanctioned the agreement. A conflict over the terms of the settlement led the defendants to attempt to set aside the agreement on the ground that the commissioner exceeded his authority when he declared them in default under the terms of the settlement. The court said, however, that sufficient authority exists in the state Constitution and in statute for court-assigned commissioners to act in a variety of uncontested and default hearings.

The majority opinion was written by Chief Justice Wright, who was joined by four other justices. Justices Mosk and Clark concurred in part but urged a more limited interpretation of the authority of commissioners.

Full disclosure

The court overturned the conviction of a man who had pleaded guilty to urinating in public and then found that he would have to register for the rest of his life as a convicted sex offender.

In *Birch on Habeas Corpus*, the court ruled unanimously that a trial judge must make sure that a criminal defendant in a misdemeanor sex-offender case is made aware of the registration requirement before pleading guilty. The decision was authored by Justice Tobriner.

James Birch was arrested on a summer night after he and some friends went to a drive-in restaurant for a snack. When he found the restaurant toilet locked, Birch urinated against a wall about 40 feet from the restaurant and 50 feet from a lamp. He was arrested by two officers in an unmarked car and charged with lewd and dissolute conduct. Birch pleaded guilty and was sentenced to five days in jail and a year's probation. In reversing the conviction, the court found that Birch was not advised of his right to a lawyer or told that by pleading guilty he would have to register as a sex offender.

— Compiled by Dennis Campbell

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California *NEWSMAKERS*

With increasing frequency, key members of Governor Reagan's staff can be expected to leave their state posts for jobs in private industry as the administration enters its final year. The latest to do so was **Ed Gray,** 38, the Governor's press secretary. He resigned in mid-November to become vice president of public affairs for San Diego Federal Savings and Loan Association, which is headed by Republican State Chairman **Gordon Luce,** himself a former secretary of business and transportation in the administration. Gray joined the Governor's press staff in 1967 from the Pacific Telephone Company. He had previously been employed in Spain by United Press International as a writer and editor. He has been replaced by **Clyde Walthall,** 46, associate press secretary since March 1972. Walthall, a former Oakland Tribune editorial writer, is Reagan's fourth press secretary. Preceeding Gray were **Paul Beck** and **Lyn Nofziger.** Beck is now on the staff of Controller Houston Flournoy, and Nofziger is directing the gubernatorial campaign of Lieutenant Governor Ed Reinecke. The jobs pays $32,256 a year.

Also leaving the administration is **Richard L. Camilli,** who has served for the past two and a half years as executive officer of the State Personnel Board. He will become a part-owner and president of Health Management Systems, Inc., which specializes in procuring contracts for prepaid health systems. Camilli had previously served as head of state Department of Health Care Services. The firm was started by **Alan Monzano,** himself a former state executive in the same field. Camilli's successor as the board's executive officer is **Ronald M. Kurtz,** chief deputy director of the Department of Social Welfare.

For the first time in the history of Congress, a Representative was granted maternity leave. Effective November 1st, Representative **Yvonne Brathwaite Burke** was granted leave so she could return to her Los Angeles home and await the arrival of her first child. The leave was requested on her behalf by Representative **Augustus F. Hawkins,** also of Los Angeles . . . . Another member of the state's congressional delegation, Representative **Edward R. Roybal,** reported that he might run for the Los Angeles County Board of Supervisors next year if Supervisor **Ernest E. Debs** retires, as has been indicated.

Off on a nine-day trip to the Orient shortly after the special election on Proposition 1 were Assembly Speaker **Bob Moretti** and his close associate, Assemblyman **Willie L. Brown Jr.** of San Francisco. Moretti was given an honorary doctor of political science degree by a Korean university . . . . **George Skelton,** chief of UPI's Capitol Bureau, resigned to become a member of the Capitol staff of the Los Angeles Times, effective January 1st. Skelton's successor with UPI will be **Carl Ingram,** assistant bureau chief.

Justice **Louis H. Burke** of the California Supreme Court was elected president of the National Center for State Courts. Burke was instrumental in establishing a regional office for the center at Hastings law school in San Francisco . . . . The state Commission on Judicial Qualifications has recommended to the Supreme Court that San Bernardino Municipal Judge **James J. McCartney** be removed from office. The commission charged that the judge had engaged in "grossly incompetent" conduct and in "displays of anger, improper language, and bullying in his relations with court attaches and other personnel."

Governor Reagan offered a $10,000 reward for information leading to the apprehension and conviction of the murderers of Dr. **Marcus Foster,** Oakland Superintendent of Schools. Foster was shot to death and aide **Robert Blackburn** was critically wounded by three young men in a parking lot outside his office. The killers, believed to be members of a mysterious terrorist organization, are still at large . . . . **Charles Gain,** Oakland's controversial chief of police, accepted an appointment as public safety director of St. Petersburg, Florida. He was replaced by **George T. Hart,** at 38 perhaps the youngest police chief of any large American city . . . . City Councilman **Arthur K. Snyder** of Los Angeles faces a recall election engineered by the large Chicano population in his district. A six-year veteran of the 15-member council, Snyder accused recall leader Dr. **David Lopez-Lee** of "reverting to racism, in effect attacking me because I'm not a Mexican-American." Lopez-Lee, a public administration professor at the University of Southern California, said he would be a candidate to succeed Snyder.

At his own request, **Gene Lynch** was demoted from chief deputy director of the state Department of Human Resources Development to deputy director for operations, according to Director Dwight Geduldig. The new chief deputy will be **Peter Rank,** who has headed the program services branch . . . . Dr. **William E. Webster,** planning coordinator for the New York State Department of Education, was named educational program director for California's schools by Superintendent of Public Instruction Wilson Riles. Webster replaced **Clare Hall,** who resigned to accept a Claremont College teaching position . . . . Professor **James Cahill,** an authority on Oriental art, was named acting director of the art museum on the University of California's Berkeley campus. The previous director, **Peter Selz,** resigned over budget cuts.

The new chief of the Fair Employment Practices Division of the state Department of Industrial Relations is **Roger A. Taylor** of San Francisco, the division's assistant chief for the past four years. He succeeds **Paul A. Meaney** of Marin County, who resigned . . . . **Harry W. Stewart,** state Director of Employment under Governor Goodwin Knight, died at 78.

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A WASHINGTON PERSPECTIVE

By Lou Cannon

Waving the Confederate flag

"It was really a social occasion," Governor Ronald Reagan said with a faint smile as he sank back into a plush upholstered chair on the luxury jet plane loaned for the evening by a Mississippi millionaire. We were in Greenville, where Reagan had just dined on filet mignon, scalloped oysters, and butter biscuits at the home of Clarke Reed, a courtly descendant of the Delta plantation Reeds, who have been power brokers in Mississippi Republican Party and a pragmatic politician who used the unit rule to lock up Mississippi for Richard Nixon at the 1968 convention after it had become apparent that Reagan had no chance to be nominated. Present on this "social occasion" with Reed and Reagan were eight Southern Republican state chairmen, all of whom had flown to Greenville for a look at the man who, through a process of elimination, has become Dixie's favorite Republican.

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The renewed interest in Reagan is sparked partly by the difficulties of Nixon, whom Southern pols publicly applaud but privately describe as a disaster. But mostly it was caused by the demise of Spiro Agnew. "We loved Spiro for his enemies," said one Mississippi politician during the Reagan visit. "We call him by his first name, which we never did Nixon. It's still hard to believe that Spiro is a crook."

Reagan was a symbolic substitute for Agnew in Mississippi. In Washington, he was a very real one. Though no one ever announced it, the Republican congressional committee planned some three months ago to use Agnew's name on a fund-solicitation letter that was scheduled to be sent to 200,000 conservatives urging 1974 campaign contributions to counter the "unfortunate and damaging publicity" of Watergate. Then came the realization that Agnew faced indictment. The committee turned to Reagan, who agreed to lend his name to the solicitation. The only condition imposed was that no fund-raising letters be mailed to California, where the Governor's friends were then raising money for the Proposition 1 campaign.

According to congressional committee officials, the letter proved a financial success.

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The night before the Greenville dinner, Reagan spoke at a $100-dollar-a-plate fund-raiser before 1,300 people in Jackson, the largest-ever GOP event of its kind in Mississippi, except for one Agnew dinner. "You're one of the key people that we need — we've loved you for a long time," said Gil Carmichael, the 1972 Republican Senate nominee, in introducing Reagan. "Nowhere else in this country are you better understood and respected, because these people want you to be the next President of the United States."

Reagan may be a long way from announcing his presidential candidacy, but he did nothing to discourage such adulation. And he told Jackson reporters upon arrival: "If there's a Southern strategy, I'm part of it."

Back in 1968 during Reagan's abortive Southern solicitation for the presidency, he stayed out of Mississippi, which was then a nationwide symbol of white supremacy. But times are changing. "We're out of the race business in the South," says Reed, who now hopes that the Republican Party can attract a share of the growing black vote.

One result of the South's new universality is that non-Southern politicians are now free to make the same speeches in the South that they make elsewhere. Reagan's speech at the Jackson dinner can contain the same mélange of patriotic, partisan generalization that Californians and Republican fund-raising audiences everywhere have been hearing for seven years. But the changes go deeper than the political speeches. At the Mississippi-Tennessee football game, Reagan joined his Rebel-yelling Ole Miss host in waving the Confederate flag to the repeated strain of "Dixie". It seemed a page out of the past. Down on the field, however, it was the wave of the future. The man at whom Reagan and the Ole Miss fans were waving the Confederate flag was James Reed, star of the Mississippi football team — and he is black.

While the South is changing, Reagan seems much the same. His approach to a prospective candidacy also appears to possess some of the same liabilities that accompanied his belated campaign in 1968. At the Republican Governors' Association winter conference in Memphis, Reagan startled his listeners by alternately denouncing the pressure groups of teachers and unionists who he said had defeated his tax-limitation initiative and, in the next breath, discounting the effect of pressure groups, lobbyists and contributors on political campaigns and state government. Some governors, not unfriendly, privately confessed that they were baffled by these statements, and Reagan also reinforced the suspicion of many Eastern reporters that he is a welterweight without the substance for the presidency.

Reagan had other problems on his Southern visit. His staff resources were slim and he did not appear well-briefed on the energy issues that were the focus of the governors' conference. Nor does he have an effective pre-campaign organization. This point was not lost in Mississippi, where the new pragmatic Republicans want a candidate who can win, not one they can lose with comfortably.

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It is early, of course, and Ronald Reagan has made a career of confounding adversaries who have underestimated him. But there is less time for the Republican Party than anybody would ever have believed when Nixon buried George McGovern a year ago. George Gallup bluntly told the Republican governors that the GOP is in the worst shape of any party since he began polling in 1935, and Republican politicians everywhere are searching for someone to lead them out of the Watergate wilderness. It is too soon to say whether Reagan is the man. But it is fair to suggest, on the basis of Memphis and all that has gone before, that a Southern strategy is not enough.

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he'll be the least disappointing.

-- Bernard Baruch

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